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TITLE 26

TAXATION

(CHAPTERS 1-33 IN VOLUME 26A; CHAPTERS 52-57 IN VOLUME 27A; CHAPTERS 58-82 IN VOLUME 27B)

SUBTITLE 4. COLLECTION AND ENFORCEMENT

CHAPTER 35

COLLECTION AND PAYMENT OF TAXES GENERALLY

Subchapter 2 — Penalties and Enforcement

26-35-201. Distraint when taxpayer about to move.

(a) If a county collector has reason to believe that a person charged with taxes, other than taxes upon real estate, is about to remove from the county without paying the person's taxes, at any time the county collector may levy and collect the taxes with costs by distress and sale.

(b) A county collector may levy and collect the charged taxes with costs by distress and sale if the delinquent taxes are not satisfied or paid in full following the sale of a business or the sale of the assets, goods, chattels, inventory, or equipment of a business not in the ordinary course of business.

History. Acts 1883, No. 114, § 121, p. 199; C. & M. Dig., § 10072; Pope's Dig., § 13833; A.S.A. 1947, § 84-914; Acts 2011, No. 821, § 2; 2013, No. 1135, § 3.

Amendments. The 2013 amendment inserted "assets" following "or the sale of the" in (b).

Subchapter 7 — Tax Collection

26-35-705. Mailing tax statements.

(a) No later than July 1 of each year, the county sheriff or county collector shall be required to mail statements of taxes due by a taxpayer to the address provided by the taxpayer.

(b)(1) No later than July 1 of each year, the county sheriff or collector may in his or her discretion establish an electronic registry allowing each taxpayer to voluntarily register the taxpayer's personal information authorizing statements of taxes due by the taxpayer to be sent electronically using the information provided by the taxpayer.

(2) The county sheriff or county collector in his or her discretion may provide electronically to the taxpayer subsequent statements or notices for property taxes due or delinquent by using the information provided by the taxpayer.

(3) In the event the taxpayer's information changes and the electronic attempt to notify is returned undelivered, it shall be the taxpayer's obligation to furnish the correct information or the tax statements will be sent to the mailing address of the taxpayer.

(c) In the event that the mailing address or electronic address information of the taxpayer changes, the taxpayer has an obligation to furnish the correct mailing address or electronic address information.

History. Acts 1929, No. 40, § 4; 1931, No. 324, § 5; 1941, No. 24, § 1; 1941, No. 115, § 1; 1957, No. 363, § 1; A.S.A. 1947, § 84-918; Acts 1989, No. 372, § 1; 1993, No. 791, § 1; 2013, No. 27, § 1.

Amendments. The 2013 amendment added (b) and (c).

26-35-706. Postage fee — Disposition.

(a) Every county collector who mails tax statements may charge the taxpayers a postage fee not to exceed the cost of first-class postage to defray the expense of processing and mailing tax statements.

(b) The postage fee shall be noted on each tax statement and shall be paid at the same time or before the tax is paid.

(c) The taxpayer's receipt shall include the amount of postage fee paid.

(d)(1) Postage fees received shall be accounted for on the county collector's final settlement.

(2) The county collector may use the fees to purchase postage, and any amount of fees collected in any month which are not used for the

purchase of postage that month shall be deposited into the county general fund.

(e) Due to the substantial savings in postage, paper, handling, and labor cost from delivery of statements and notices electronically using information provided by the taxpayer, the county sheriff or county collector sending the tax statement and notices may waive the costs for mail delivery from taxpayer property tax statements or may charge the reduced costs of electronic notification.

History. Acts 1987, No. 324, § 1; 2013, No. 27, § 2.

Amendments. The 2013 amendment added (e).

CHAPTER 36

COLLECTION OF DELINQUENT TAXES

Subchapter 2 — Collection Generally

Effective Dates. Acts 2013, No. 1279, § 2: Jan. 1, 2013. Effective date clause provided: "This act is effective for assessment years beginning on or after January 1, 2013."

26-36-206. Distraint of goods to pay delinquent personal property taxes.

(a)(1) At any time after October 15, the county collector shall distrain sufficient goods and chattels belonging to a person who owes taxes upon the person's personal property to pay the taxes due upon the personal property and a penalty of twenty-five percent (25%) on the taxes due.

(2) If the county collector distrains goods and chattels under subdivision (a)(1) of this section, the county collector shall immediately proceed to advertise the sale of the goods and chattels in three (3) public places in the county, stating the time when and the place where the goods and chattels will be sold.

(3) The county collector shall collect taxes and penalties under this subsection and deposit the taxes and penalties under this subsection into the county school fund.

(b)(1) If the taxes for which property is distrained, and costs which shall accrue thereon are not paid before the day appointed for sale, which shall not be less than ten (10) days after taking the property, the county collector shall proceed to sell the same at public vendue, or so much thereof as will be sufficient to pay the taxes and the costs of the distress and sale.

(2) The county collector shall not distrain any goods and chattels for taxes levied on real property, except as provided in § 26-3-204.

(c)(1) The county collector is authorized and empowered to levy on and sell the goods and chattels of the person liable for taxes provided, in the same manner and under the same restrictions as goods and chattels are required to be levied and sold under execution on judgment at law, when not inconsistent with the provisions of this subchapter.

(2) No goods and chattels of any person shall be exempt from levy and sale.

(d) The county collector is allowed the same fees for making distress and sale of goods and chattels for the payment of taxes which are allowed by law to the county sheriff for making levy and sale of property on execution under § 21-6-307 for each delinquent taxpayer.

(e)(1) If a taxpayer operating a business in a county is delinquent in the payment of personal property taxes for personal property owned by or used in the business, then following the certification and publication of delinquency under § 26-36-203, the county collector may distrain goods or chattels of the taxpayer owned by or used in the business under subsection (a) of this section by publication of a Notice of Distraint and Tax Sale in three (3) public places in the county or in a newspaper of general circulation in the county.

(2) The Notice of Distraint and Tax Sale shall contain:

(A) The location, date, and time of the sale;

(B) The name of the taxpayer and business under which the goods or chattels to be sold is assessed;

(C) The principal sum of personal property taxes owed with a certification of the principal sum by the county collector;

(D) The following specific information:

"The goods or chattels of the taxpayer listed above located within ___________ County, Arkansas, is under distraint and shall be sold to satisfy the delinquency in the payment of personal property taxes under Arkansas Code § 26-36-206. Under Arkansas Code § 26-34-101, the taxes assessed on real and personal property shall constitute a lien entitled to preference over all other judgments, executions, or encumbrances, or liens whensoever created. Under Arkansas Code § 4-1-201, a buyer in ordinary course of business does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt."; and

(E) A statement that it is a Class B misdemeanor to remove, destroy, or deface the Notice of Distraint and Tax Sale or to interfere or obstruct the sale of or the access to the goods or chattels on the date

of the sale by the county collector, the county sheriff, or their deputies.

(3) The county collector shall provide a copy of the Notice of Distraint and Tax Sale to the taxpayer by regular mail or by posting a copy at the physical location where the goods or chattels are held.

(4) The Notice of Distraint and Tax Sale shall be posted conspicuously at the location of the sale.

(5) In lieu of physically securing the goods or chattels or storing or transporting the goods or chattels to another location for sale, the sale may be held at any place of business, warehouse, storeroom, or facility owned or under the possession of the taxpayer, including without limitation the current location of the goods or chattels to be sold.

(6) It is a Class B misdemeanor to knowingly remove, destroy, or deface a Notice of Distraint and Tax Sale posted under this section or to knowingly interfere or obstruct the sale or access of the county collector, the county sheriff, or their deputies to the goods or chattels on the date of the sale.

History. Acts 1883, No. 114, §§ 118, 120, p. 199; 1887, No. 26, § 1, p. 32; 1887, No. 92, § 42, p. 143; C. & M. Dig., §§ 10068, 10070; Pope's Dig., §§ 13829, 13831; A.S.A. 1947, §§ 84-1015, 84-1017; Acts 2009, No. 555, §§ 1, 2; 2011, No. 175, § 11; 2013, No. 1135, § 4.

Amendments. The 2013 amendment redesignated former (a) as present (a)(1) and added (a)(2) and (a)(3); in present (a)(1), deleted "in each year, after taxes may be due" following "October 15" and "which shall be collected by the county collector and paid into the county school fund, and the costs that may accrue and shall immediately proceed to advertise the sale of the goods and chattels in three (3) public places in the county, stating the time when and the place where the goods and chattels shall be sold" from the end and substituted "a person who owes taxes upon the person's personal property" for "the person charged with taxes levied upon the personal property."

26-36-209. Time and manner — Returns.

(a) The county collector may collect, at any time, all delinquent personal property tax in his or her county, or any that may be sent from another county, by the sale of property or otherwise, and the county collector shall make returns of the amount so collected to the proper counties and officers.

(b)(1) The county collector shall pay over to the county treasurer on the first day of each month or within five (5) working days after the first day of each month all amounts collected for his or her county under this section.

(2) However, upon a certificate of distribution of the amounts collected under this section being prepared by the county clerk, county collector, or other county officer designated pursuant to § 26-28-102(a), which certificate shall be issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds the amount due each fund.

(c)(1) All costs associated with such delinquent personal property taxes shall be prorated to the original taxing entities.

(2) All penalties shall be deposited as county revenues in the county general fund unless a county has a functioning executive council and full-time school district coordinator established under § 6-12-315, in which case the penalties shall be divided fifty percent (50%) to the county general fund and fifty percent (50%) to the county common school fund.

(d) For purposes of this section, the costs and penalties associated with delinquent personal property taxes shall not be considered a portion of the county collector's revenue in calculating excess commissions.

History. Acts 1883, No. 114, § 125, p. 199; C. & M. Dig., §§ 10078, 10079; Pope's Dig., §§ 13839, 13840; A.S.A. 1947, § 84-1018; Acts 1997, No. 213, § 1; 1999, No. 1078, § 88; 2009, No. 721, § 5; 2013, No. 958, § 3.

Amendments. The 2013 amendment rewrote (c)(2).

26-36-213. Delinquent taxes on mineral interests — Certified statement or account.

(a)(1)(A) If a county collector demands payment of property tax due on mineral interests by a known owner of mineral interests at the taxpayer's last known address and the taxpayer fails to pay the property tax due on mineral interests by October 15, the county collector, after December 1, may:

(i) Present a certified statement or account for taxes to any person who has in the person's possession funds that are:

(a) Derived from the property on which the delinquent taxes are outstanding; and

(b) Due and owing to the delinquent taxpayer; and

(ii) Demand payment of the delinquent taxes plus any penalties and interest.

(B)(i) For property taxes on mineral interests that are delinquent after December 1 and at the time the certified statement or account is presented, an additional penalty of ten percent (10%) of the amount of the delinquent property taxes shall be assessed as an administrative collection fee.

(ii) Upon collection of the delinquent property taxes and any penalties and interest from the person receiving the certified statement or account, the county collector shall pay, upon request, one-half (½) of the penalty assessed and collected under subdivision (a)(1)(B)(i) of this section to the person making the payment for the administrative costs incurred in collecting and paying to the county collector the delinquent taxes, penalties, and interest.

(iii) A portion of the administrative collection fee retained by the county collector under this section shall represent the interest continuing to accrue for the period of up to ninety (90) days from the date that the certified statement or account is presented until the certified statement or account is returned with payment. No other form of interest is due from the person receiving the certified statement or account.

(C) Before a county collector may initiate collection proceedings under this section, the county collector shall provide the notice of publication required under § 26-37-107, which shall also include the following information:

(i) Notice of the penalty provided under subdivision (a)(1)(B)(i) of this section; and

(ii) Notice that the county collector may seek collection under this section if the property taxes, penalties, and interest remain unpaid after December 1.

(2)(A) Except as provided in subdivision (a)(2)(C) of this section, the person to which the certified statement or account for taxes is presented shall pay the county collector the amount of the taxes, penalties, and interest that the delinquent taxpayer owes up to the amount of funds the person has in the person's possession that is due and owing to the delinquent taxpayer.

(B)(i) The county collector shall provide a copy of the county collector's receipt for the payment to the person making the payment under this section and to the delinquent taxpayer at the delinquent taxpayer's last known address.

(ii) The receipt provided under subdivision (a)(2)(B)(i) of this section shall be accepted in the county collector's office and in all courts of the state as payment on the delinquent taxpayer's indebtedness of the amount expressed on the county collector's receipt.

(C)(i) The county collector shall not receive or accept a partial payment of the delinquent taxes, penalties, and interest due.

(ii) If, at the end of the ninety-day period allowed for the return of the certified statement or account, a person to which the certified statement or account for taxes is presented has in the person's possession an amount of funds due and owing to the delinquent taxpayer that is less than the amount of the taxes, penalties, and interest that the delinquent taxpayer owes, the person to which the certified statement or account is presented is not required to pay any amount.

(b)(1) Service of the certified statement or account of the tax under this section shall operate as a levy upon the person served.

(2) The certified statement or account shall:

(A) State the name of the delinquent taxpayer and the delinquent taxpayer's last known address;

(B)(i) Identify the delinquent taxpayer's assessed property interests.

(ii) The county collector shall include in the certified statement or account the identification information provided in the notice of publication made under § 26-37-107 and a copy of the tax statements containing the delinquent taxpayer's last known address;

(C) State that the certified statement or account is returnable within ninety (90) days from receipt by the person indebted to the delinquent taxpayer;

(D) State the amount of taxes, penalties, and interest owed;

(E) Be returned with payment of the amount owed and delinquent as reflected on the certified statement or account; and

(F) Be effective until the earlier of the following:

(i) The date the certified statement or account is paid in full; or

(ii) One (1) year from the date the certified statement or account is presented for payment under this section.

(3) A person shall not be compelled to pay the following:

(A) Any amount before it is due and owing to the delinquent taxpayer; or

(B) A greater amount than is owed to the delinquent taxpayer.

(c)(1) A person making a payment to a county collector under this section is not liable to the delinquent taxpayer to which the person is indebted for complying with a demand for payment under this section.

(2) A payment made under this section is considered to be made to the delinquent taxpayer and satisfies any contractual obligation or indebtedness due and owing the delinquent taxpayer by the person making the payment on the certified statement or account for the amount expressed on the county collector's receipt.

History. Acts 2013, No. 1279, § 1.

Effective Dates. Acts 2013, No. 1279, § 2: Jan. 1, 2013. Effective date clause provided: "This act is effective for assessment years beginning on or after January 1, 2013."

Subchapter 3 — Setoff Against State Tax Refund

SECTION.

Effective Dates. Acts 2013, No. 282, § 17: Mar. 6, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one-year period; that the effectiveness of this act as soon as possible is essential to the operation of the judiciary and the administration of justice; and that this act is immediately necessary because the delay in the effective date of this act could cause irreparable harm upon the proper administration of essential governmental programs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

26-36-303. Definitions.

As used in this subchapter:

(1)(A) "Claimant agency" means:

(i) State-supported colleges, universities, and technical institutes;

(ii) The Department of Human Services;

(iii) The Arkansas Student Loan Authority;

(iv) The Student Loan Guarantee Foundation of Arkansas;

(v) The Auditor of State;

(vi) The Department of Higher Education;

(vii) The Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration;

(viii) Arkansas circuit, county, district, or city courts;

(ix) Housing authorities created under § 14-169-101 et seq.;

(x) The Employee Benefits Division of the Department of Finance and Administration;

(xi) The Office of Personnel Management of the Department of Finance and Administration;

(xii) County collectors and county treasurers;

(xiii) The Department of Health;

(xiv) The Internal Revenue Service;

(xv) The Arkansas Real Estate Commission; and

(xvi) The Arkansas Public Defender Commission created under § 16-87-202.

(B) An entity shall not be added as a claimant agency under this subdivision (1) after July 16, 2003, unless the entity has an annual outstanding debt of two hundred thousand dollars ($200,000);

(2) "Debt" means:

(A) Any liquidated sum due and owing any claimant agency, which has accrued through contract, subrogation, tort, operation of law, legal proceeding, or any other legal theory, regardless of whether there is an outstanding judgment for that sum;

(B) Accrued obligations due to an assignment of child support rights made to the state as a condition of eligibility for welfare assistance and those which have accrued from contract with the claimant agency by an individual who is not the recipient of welfare assistance;

(C) Money owed to a claimant agency as a result of a debtor's cashing both the original and the duplicate state warrants;

(D) All of the following that are not under appeal:

(i) Traffic fines;

(ii) Any court-imposed fine or cost, including fines related to the prosecution of hot checks under the Arkansas Hot Check Law, § 5-37-301 et seq.; and

(iii) Restitution ordered by a circuit, county, district, or city court related to the violation of any state law;

(E) Money owed to a claimant agency for all costs as a result of the debtor's use of state medical and pharmacy benefits for which he or she is not entitled;

(F) Money owed to a claimant agency for all costs resulting from an overpayment of wages or salaries, including a lump sum payment; and

(G) Money owed to a claimant agency for all delinquent taxes, all costs resulting from delinquent taxes, and any penalties assessed against a delinquent taxpayer under § 26-36-201;

(3) "Debtor" means any individual owing money to or having a delinquent account with any claimant agency, which obligation has not been adjudicated, satisfied by court order, set aside by court order, or discharged in bankruptcy;

(4) "Division" means the Revenue Division of the Department of Finance and Administration;

(5) "Refund" means the Arkansas income tax refund that the division determines to be due any individual taxpayer less any amounts determined by the division to be due to the division for payment of any state tax as defined in the Arkansas Tax Procedure Act, § 26-18-101 et seq.; and

(6) "Setoff" means the withholding of part or all of income tax refunds due individuals who owe debts to the State of Arkansas, to a county, a city, or a town, or to a housing authority created under § 14-169-101 et seq.

History. Acts 1983, No. 372, § 2; 1983 (1st Ex. Sess.), No. 82, § 1; 1985, No. 987, §§ 1, 6; A.S.A. 1947, § 84-4902; Acts 1989, No. 698, § 1; 1993, No. 345, § 1; 1995, No. 1184, § 36; 1995, No. 1262, § 12; 1997, No. 1280, § 1; 2003, No. 826, § 1; 2003, No. 1023, §§ 2, 3; 2003, No. 1800, §§ 2, 3; 2005, No. 277, § 1; 2007, No. 553, § 1; 2011, No. 724, § 1; 2011, No. 815, § 1; 2011, No. 983, § 4; 2013, No. 158, § 1; 2013, No. 282, § 14; 2013, No. 961, § 2[4].

A.C.R.C. Notes. Acts 2013, No. 961, contained two sections designated as "Section 2".

Amendments. The 2013 amendment by No. 158 added (1)(A)(xv).

The 2013 amendment by No. 282 deleted "that have been delinquent for more than six (6) months and" preceding "that are" in (2)(D).

The 2013 amendment by No. 961 added (1)(A)(xvi).

CHAPTER 37

SALE OR FORFEITURE OF REAL PROPERTY

Subchapter 1 — General Provisions

26-37-101. Transfer of tax-delinquent lands.

(a)(1)(A) All lands upon which the taxes have not been paid for one (1) year following the date the taxes were due, October 15, shall be

forfeited to the state and transmitted by certification to the Commissioner of State Lands for collection or sale.

(B) The Commissioner of State Lands may accept an electronic certification of tax delinquent parcels from a county.

(2) Tax-delinquent lands shall not be sold at the county level.

(b) The county collector shall hold all tax-delinquent lands in the county for one (1) year after the date of delinquency, and, if the lands are not redeemed by the certification date, which shall be no later than July 1 of the following year, the county collector shall transmit it to the state by certification, after notice as provided in this chapter, indicating all taxes, penalties, interest, and costs due and the name and last known address of the owner of record of the tax-delinquent lands.

(c) Upon receipt of the certification, title to the tax-delinquent lands shall vest in the State of Arkansas in care of the Commissioner of State Lands.

History. Acts 1983, No. 626, § 1; A.S.A. 1947, § 84-1126; Acts 1987, No. 814, § 5; 1993, No. 791, § 2; 1995, No. 660, § 1; 2011, No. 175, § 13; Act 2013, No. 553, § 2.

Amendments. The 2013 amendment redesignated former (a)(1) as (a)(1)(A), and added (a)(1)(B).

Subchapter 2 — Sale of Tax-Delinquent Lands

Effective Dates. Acts 2013, No. 556, § 2: Apr. 2, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that tax-delinquent properties are in need of repairs to prevent deterioration, satisfy building code requirements, and combat blight; and that the failure to make prompt repairs leaves citizens, especially children, susceptible to disease and dangerous and harmful conditions. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

26-37-201. Publication of notice — Fee.

(a)(1) The Commissioner of State Lands shall publish a notice of sale of land upon which the ad valorem property taxes have not been paid in a newspaper having general circulation in the county where the land is located.

(2) The publication fee for the notice shall be the same as set forth in § 26-37-107.

(b) The notice shall:

(1) Contain the assessed value of the land;

(2) Contain the amount of taxes, interest, penalties, and other costs due on the land;

(3)(A) Contain the name of the owner, the legal description, and parcel number of the land.

(B) A part or abbreviated legal description shall be sufficient in the notice if the name of the owner and parcel number are listed;

(4) Contain a list of all interested parties; and

(5) Indicate that the land will be sold to the highest successful bidder if the bid is equal to at least the amount of delinquent taxes, penalties, interest, and the costs of the sale.

(c) The successful bidder shall pay all taxes, interest, penalties, and other costs.

(d)(1) Failure of the notice to contain the information required in subsection (b) of this section does not invalidate an auction sale of the land unless an owner or interested party did not receive notice in substantial compliance with § 26-37-301.

(2) Only an owner or interested party that fails to receive notice in substantial compliance with § 26-37-301 may challenge the validity of the publication notice.

(e) As used in this subchapter, "owner" and "interested party" mean the same as defined in § 26-37-301.

History. Acts 1983, No. 626, § 3; A.S.A. 1947, § 84-1128; Acts 1987, No. 814, § 5; 1995, No. 714, § 2; 2005, No. 1231, § 3; 2007, No. 706, § 1; 2011, No. 862, § 1; 2013, No. 1231, §§ 1, 2.

Amendments. The 2013 amendment rewrote (b)(5); and substituted "highest" for "successful" in (c).

26-37-202. Procedure to sell.

(a)(1) Bidders may bid at the sale or mail their bid to the office of the Commissioner of State Lands.

(2) Bids shall be delivered at the appropriate place before the deadline established in the notice of the sale.

(b)(1) If at the scheduled public sale a person or entity does not bid at least the amount of delinquent taxes, penalties, interest, and the costs of the sale, the Commissioner of State Lands may negotiate a private sale.

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, a negotiated private sale shall be approved by the Attorney General before conveyance of the land by the Commissioner of State Lands.

(B) A negotiated private sale that occurs later than two (2) years after the scheduled public sales does not require approval by the Attorney General.

(c)(1) Except as provided in subdivision (c)(2) of this section, the Commissioner of State Lands shall conduct tax-delinquent sales in the county where the land is located.

(2) If the Commissioner of State Lands determines that sufficient parcels of land located in one (1) county do not exist to justify a single sale in one (1) county, the Commissioner of State Lands may hold a tax-delinquent land sale in one (1) location and sell land located in more than one (1) county if the counties are adjoining counties.

(d) The sales shall be conducted on the dates specified in the notices required by this subchapter.

(e)(1) After a sale of the land by the Commissioner of State Lands, including a negotiated sale, the Commissioner of State Lands shall notify the owner and all interested parties of the right to redeem the land within ten (10) days, excluding Saturdays, Sundays, and legal holidays, after the date of the sale by paying all taxes, penalties, interest, and costs due, including the cost of the notice.

(2) The notice under subdivision (e)(1) of this section shall be sent by regular mail to the last known address of the owner and all interested parties.

(3) If the land is not redeemed, a limited warranty deed shall be issued by the Commissioner of State Lands to the purchaser.

(f) As used in this section, "interested party" has the same meaning as in § 26-37-301.

History. Acts 1983, No. 626, § 3; A.S.A. 1947, § 84-1128; Acts 1987, No. 814, § 5; 2007, No. 706, § 2; 2013, No. 1231, § 3.

Amendments. The 2013 amendment subdivided (a) and (c); rewrote (b) and present (c)(2); in (c)(1), added "Except as provided in subdivision (c)(2) of this section," and substituted "where" for "wherein"; and, in (e)(1), substituted "ten (10) days, excluding Saturdays, Sundays, and legal holidays" for "thirty (30) days" and inserted "by" preceding "paying"; and substituted "shall" for "will" in (e)(3).

26-37-203. Conveyance to purchaser — Contest.

(a) If the tax-delinquent land is sold, the Commissioner of State Lands shall convey the tax-delinquent land by issuing a limited warranty deed to the land.

(b)(1) Except as provided in subdivision (b)(2) of this section, an action to contest the validity of a conveyance under this section or a negotiated sale under § 26-37-101 is barred if not commenced within ninety (90) days after the date of the conveyance.

(2) A cause of action by a person suffering a mental incapacity, a minor, or a person serving in the United States armed forces during time of war during the one-year period under subdivision (b)(1) of this section is barred if not commenced within two (2) years after the disability is removed, the minor reaches majority, or the person is released from active duty with the United States armed forces during time of war.

(c) A deed issued after January 1, 1987, by the Commissioner of State Lands is not void or voidable on the ground that the county did not strictly comply with the laws governing tax-delinquent land.

(d) This section does not prevent a taxpayer from contesting the validity of a deed issued by the Commissioner of State Lands on the ground that taxes have actually been paid.

History. Acts 1983, No. 626, § 4; A.S.A. 1947, § 84-1129; Acts 1987, No. 814, § 5; 1989, No. 938, § 1; 1993, No. 791, § 4; 2003, No. 1215, § 1; 2005, No. 1231, § 4; 2007, No. 1036, § 3; 2011, No. 862, § 2; 2013, No. 1135, § 5; 2013, No. 1231, § 4.

Amendments. The 2013 amendment by No. 1135 added "active duty with" preceding "the United States", and made stylistic changes in (b)(2); and added "tax-delinquent" preceding "land" in (b)(3).

The 2013 amendment by No. 1231 substituted "sold" for "not redeemed within the thirty day period under § 26-27-202" in (a); in (b)(1), substituted "subdivision (b)(2)" for "subdivisions (b)(2) and (3)" and "ninety (90) days" for "one (1) year" and inserted "or a negotiated sale under § 26-37-101" before "is barred"; and deleted (b)(3).

26-37-204. Sales set aside.

(a) In the event the sale is set aside by legal action or if the land is proven to be nonexistent or double assessed, the purchaser shall be entitled to reimbursement of moneys paid.

(b) The Commissioner of State Lands shall have the authority to set aside any sale. In the event the Commissioner of State Lands determines that a sale shall be set aside, the purchaser may be entitled to reimbursement of moneys paid to the Commissioner of State Lands.

(c) In cases where sales may be set aside by the Commissioner of State Lands or by legal action by the record owner or the heirs or assigns of the record owner, the record owner or the heirs or assigns of the record owner shall pay all back taxes, penalties, interest, and costs charged against the land.

(d) If the Commissioner of State Lands determines that the owner and all interested parties did not receive the required notice of sale and right to redeem, the Commissioner of State Lands shall:

(1) Set aside the sale; or

(2) Notify the owner and interested parties of the reasons why the Commissioner of State Lands does not believe the sale should be set aside.

(e) As used in this section, "interested party" means the same as in § 26-37-301.

(f) The Commissioner of State Lands shall not be liable for any monetary damages to any owner, interested party, or purchaser of tax-delinquent land for any action taken or any omission of action related to the sale of tax-delinquent land.

(g) An owner or interested party shall tender cash or certified funds, including without limitation a money order, cashier's check, or certified bank check equal to the amount of all taxes, penalties, interest, and costs charged against the tax-delinquent land:

(1) Into the registry of the court before filing a complaint to set aside a sale of the tax-delinquent land; or

(2) With the Commissioner of State Lands before asking the Commissioner of State Lands to set aside a sale of the tax-delinquent land.

History. Acts 1983, No. 626, § 5; A.S.A. 1947, § 84-1130; Acts 1991, No. 1080, § 2; 2007, No. 706, § 3; 2011, No. 862, § 3; 2013, No. 574, § 1.

Amendments. The 2013 amendment rewrote the introductory language of (g).

26-37-205. Distribution of funds.

(a) All moneys collected by the Commissioner of State Lands from the sale or redemption of tax-delinquent lands shall be distributed as follows:

(1)(A) First, to the Commissioner of State Lands, the penalties, the collection fees, the sale costs, and the other costs as prescribed by law.

(B) The sale costs, including without limitation fees for title work;

(2) Second, to each county an amount equal to the taxes due plus interest and costs to the county as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county within one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands;

(3)(A) Third, to each county an amount equal to the delinquent personal property taxes, plus penalty, of the owner or owners of the tax-delinquent land as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county after one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands.

(B) The Commissioner of State Lands shall review the information provided by the county collector and any other interested party to ascertain:

(i) Whether the personal property tax and penalty qualifies to be withheld from the tax-delinquent land sale proceeds; and

(ii) The amount of personal property tax and penalty that qualifies under this subdivision (a)(3) to be withheld.

(C) If the Commissioner of State Lands is required to make a refund of the personal property taxes withheld under subdivision (a)(3)(A) of this section to a purchaser of tax-delinquent lands for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the county or counties that originally received the proceeds under this subdivision (a)(3) of the tax-delinquent land sale.

(D) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(3).

(E) This section does not require the Commissioner of State Lands to search county records to determine whether an owner of tax-delinquent land owes delinquent personal property taxes.

(F) This section does not grant a county a right to a lien against real property for the payment of delinquent personal property tax;

(4)(A) Fourth, to the Department of Finance and Administration an amount equal to the delinquent tax, penalty, and interest owed to the department and for which certificates of indebtedness have been filed against the owner or owners of the tax-delinquent land as certified by the department, which amount shall be held in an escrow fund administered by and remitted to the department within one (1) calendar year after the receipt of the moneys by the Commissioner of State Lands.

(B) If the Commissioner of State Lands is required to make a refund of the taxes withheld under subdivision (a)(4)(A) of this section to a purchaser of tax-delinquent lands for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the department from the proceeds originally received under this subdivision (a)(4).

(C) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(4);

(5)(A) Fifth, to each county an amount equal to the delinquent solid waste assessments, plus penalty and interest, of the owner or owners of the tax-delinquent land as certified by the county collector, which amount shall be held in an escrow fund administered by and remitted to the county after one (1) calendar year of the receipt of the moneys by the Commissioner of State Lands.

(B) The Commissioner of State Lands shall review the information provided by the county collector and any other interested party to ascertain:

(i) Whether the amount of delinquent solid waste assessment and penalty and interest qualifies to be withheld from the tax-delinquent land sale proceeds; and

(ii) The amount of delinquent solid waste assessment and penalty and interest that qualifies under this subdivision (a)(5) to be withheld.

(C) If the Commissioner of State Lands is required to make a refund of the delinquent solid waste assessment withheld under subdivision (a)(5)(A) to a purchaser of tax-delinquent lands for any reason, the amount of the refund shall be recovered by the Commissioner of State Lands from the county or counties that originally received the proceeds under this subdivision (a)(5) of this section of the tax-delinquent land sale.

(D) The Commissioner of State Lands shall promulgate rules and forms needed to administer this subdivision (a)(5).

(E) This section does not require the Commissioner of State Lands to search county records to determine whether an owner of tax-delinquent land owes delinquent solid waste assessments.

(F) This section does not grant a county a right to a lien against real property for the payment of delinquent solid waste assessment; and

(6) Sixth, to be placed in another escrow fund administered by the Commissioner of State Lands, the remainder, if any.

(b) If no actions are brought within the time limits prescribed under this subchapter, the remaining funds, if any, shall be distributed by the Commissioner of State Lands as follows:

(1) Ten percent (10%) of the remaining funds up to a maximum amount of five hundred dollars ($500) shall be paid to the Commissioner of State Lands for the administration of the distribution of the funds;

(2)(A) After payment is made to the Commissioner of State Lands pursuant to subdivision (b)(1) of this section, the amount left in the remaining funds shall be paid to the former owners of the tax-delinquent land.

(B)(i) "Former owner" means a person, partnership, corporation, or other legal entity capable of owning real property in the State of Arkansas and that holds record title to the real property on the date of sale by the Commissioner of State Lands.

(ii) "Former owner" does not include heirs or relations beyond the first degree of consanguinity.

(C)(i) A former owner must file an application with the Commissioner of State Lands requesting the release of the funds.

(ii) The application shall be provided by the Commissioner of State Lands and shall require proof of ownership of the tax-delinquent land as well as proof of authority to act on behalf of the owner.

(iii) The application may require other information the Commissioner of State Lands deems necessary before the release of the funds.

(D)(i) The former owner shall release and relinquish all rights, title, and interests in and to the tax-delinquent land.

(ii) The Commissioner of State Lands shall provide a release deed to the former owner to execute.

(E) In the event of any dispute, claim, or multiple claims of ownership or controversy regarding the release of the funds, the Commissioner of State Lands may require the party or parties to provide a court order to resolve the issues and to establish the party or parties entitled to the remaining funds.

(F) An agreement by a former owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of remaining funds, is enforceable only if the agreement:

(i) Is in writing;

(ii) Clearly sets forth the nature of the property and the services to be rendered;

(iii) Provides a fee of not more than ten percent (10%) of the recovery;

(iv) Is signed by the former owner; and

(v) States the value of the remaining funds before and after the fee or other compensation has been deducted.

(G)(i) An agreement covered by subdivision (b)(2)(F) of this section that provides for compensation that is unconscionable is unenforceable except by the former owner.

(ii) A former owner who has agreed to pay compensation that is unconscionable may maintain an action to reduce the compensation to a conscionable amount.

(iii) The court may award reasonable attorney's fees to a former owner that prevails in the action.

(H) Subdivision (b)(2)(G) of this section does not preclude a former owner from asserting that an agreement covered by subdivision (b)(2)(F) of this section is invalid on grounds other than unconscionable compensation.

(I)(i) The Commissioner of State Lands shall make all funds payable to the former owner.

(ii) No funds shall be made payable to any other person or entity other than the former owner without a court order directing the payment to the other person or entity.

(iii) No interest shall be paid to the former owner on the funds.

(J)(i) Anyone filing a claim or assisting with the filing of a claim that results in the erroneous payment of a claim is responsible for the repayment of all funds paid.

(ii) Any claim filed fraudulently is punishable as a Class D felony; and

(3)(A) Any funds placed in escrow prior to July 1, 2005, shall be held in escrow for five (5) years and at the end of the five-year period, if the funds have not been distributed, the escrow funds shall escheat to the county in which the property is located.

(B) Any funds placed in escrow on and after July 1, 2005, shall be held for three (3) years, and at the end of the three-year period, if the funds have not been distributed, the escrow funds shall escheat to the county in which the property is located.

(c) All funds distributed to each county by the Commissioner of State Lands from the redemption or sale of tax-delinquent lands, including any interest and costs, are to be distributed to the applicable taxing units where the delinquent land is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due.

(d) All funds received by a county from the redemption of tax-delinquent land at the county level, including any penalty, interest, and costs, are to be distributed to the applicable taxing units where the delinquent land is located within the county in the manner and proportion that the taxes would have been distributed if they had been collected in the year due.

(e) This section shall be severable, and if any phrase, clause, sentence, or provision of this section is declared to be contrary to the laws of this state, the validity of the remainder of this section shall not be affected.

History. Acts 1983, No. 626, § 6; 1985, No. 1021, § 1; A.S.A. 1947, § 84-1131; Acts 1987, No. 814, § 7; 1989, No. 424, § 1; 1991, No. 1080, § 3; 2003, No. 1215, § 2; 2005, No. 1880, § 1; 2009, No. 400, § 1; 2011, No. 785, § 1; 2013, No. 1485, § 1.

Amendments. The 2013 amendment

inserted present (a)(5) and redesignated former (a)(5) as (a)(6).

26-37-209. Compensation for improvements.

(a)(1) A purchaser under this chapter of any land or town lot or city lot or another person claiming under the purchaser shall not be entitled to any compensation for any improvement that the purchaser shall make on the land or town lot or city lot within the time frame established in § 26-37-203, except for:

(A) The cost of repairs necessary to prevent deterioration of any improvements on the land or town lot or city lot; or

(B) The cost necessary to comply with any state, county, or city code requirements.

(2) The compensation allowed under subdivision (a)(1) of this section shall be a charge upon the land.

(b) For an improvement made after the expiration of the time frame established in § 26-37-203, the purchaser under this chapter shall be allowed the full cash value of the improvement, and the allowance shall be a charge upon the land.

History. Acts 1883, No. 114, § 155, p. 199; C. & M. Dig., § 10120; Pope's Dig., § 13884; A.S.A. 1947, § 84-1121; Acts 2003, No. 1215, § 3; 2005, No. 1231, § 5; 2007, No. 1036, § 4; 2013, No. 556, § 1.

Amendments. The 2013 amendment rewrote the section.

Subchapter 3 — Redemption of Realty to Be Sold for Taxes

SECTION.

26-37-302. Payment required.

(a) To redeem tax-delinquent land with the county collector or the Commissioner of State Lands and to purchase tax-delinquent land at the Commissioner of State Lands's sale the redeemer or purchaser of tax-delinquent land shall pay all delinquent taxes, plus:

(1) Ten percent (10%) simple interest for each year of delinquency;

(2) A ten percent (10%) penalty for each year of the delinquency; and

(3) The costs incurred by the county and the Commissioner of State Lands.

(b) The penalties and interest shall accrue beginning on October 11 in the year of delinquency.

(c) Payment to redeem tax-delinquent land under this section shall be made by cash or certified funds, including without limitation a money order, cashier's check, or certified bank check if the redemption occurs:

(1) Within sixty (60) days before the date of the scheduled sale; or

(2) During the redemption period following the sale.

History. Acts 1983, No. 626, § 1; A.S.A. 1947, § 84-1126; Acts 1987, No. 814, § 5; 2011, No. 864, § 1; 2013, No. 574, § 2.

Amendments. The 2013 amendment rewrote the introductory language of (c).

CHAPTER 38

CONFIRMATION OF TAX SALES

Subchapter 2 — Title to Forfeited Lands

26-38-201. Suit to confirm title to land in state.

(a) If real property has been forfeited to the State of Arkansas and conveyed by certification to the Commissioner of State Lands for the nonpayment of taxes, the state or the purchaser, donee, or redemptor of the real property may file a suit for confirmation of title in the circuit court of the county where the real property lies, requesting that the title to the real property be confirmed and quieted in the State of Arkansas in care of the Commissioner of State Lands, or in the purchaser, donee, or redemptor of the real property in fee simple.

(b)(1) A suit to confirm title in the State of Arkansas or in a purchaser, donee, or redemptor may be filed at any time after the conveyance by certification.

(2) The state may elect to file a suit for confirmation after conveyance from the state to a purchaser, donee, or redemptor.

(3) If a suit for confirmation is filed after a conveyance from the state, the decree of confirmation inures to the benefit of the purchaser, donee, or redemptor of the real property.

History. Acts 1993, No. 646, § 1; 2011, No. 1133, § 1; 2013, No. 1135, § 6.

Amendments. The 2013 amendment substituted “A suit” for “Suit” in (b)(1); inserted “a suit” in (b)(2); and inserted “a suit for” in (b)(3).

26-38-202. Complaint.

(a) The Commissioner of State Lands on behalf of the State of Arkansas or the purchaser, donee, or redemptor of the real property from the state or the grantees of a purchaser, donee, or redemptor of the real property from the state shall file in the office of the clerk of the circuit court of the county in which the forfeited real property is situated a complaint requesting that title be quieted and confirmed to the real property described in the complaint.

(b)(1) If the Commissioner of State Lands is the plaintiff, the commissioner shall attach to the complaint his or her certified list

describing the real property and containing the years and the amounts for which the real property was forfeited.

(2) A purchaser, donee, or redemptor of real property from the state or the grantee of a purchaser, donee, or redemptor of the real property from the state shall attach to the complaint a copy of the limited warranty deed or other documentation evidencing the transfer of the real property from the state to the purchaser, donee, or redemptor or the grantee of a purchaser, donee, or redemptor of the real property from the state.

(c) The complaint may include as many parcels of real property as the Commissioner of State Lands or the purchaser, donee, or redemptor of real property from the state or the grantee of a purchaser, donee, or redemptor of the real property from the state deems proper, so long as all parcels lie within the county.

(d)(1) The certified list is all the proof that is required to show prima facie title in the state.

(2) A limited warranty deed or a donation deed is all the proof that is required to show prima facie title in a purchaser, donee, or redemptor or the grantee of a purchaser, donee, or redemptor of the real property from the state.

History. Acts 1993, No. 646, § 2; 2011, No. 1133, § 2; 2013, No. 1231, § 5.

Amendments. The 2013 amendment inserted "or the grantees of a purchaser, donee, or redemptor of the real property from the state" throughout this section; and rewrote (b)(1).

26-38-208. Severed mineral rights.

(a)(1) Subject to the additional requirements of this section, this subchapter applies to severed mineral interests that are forfeited and conveyed to the state for the nonpayment of taxes.

(2) As used in this subchapter, "real property", "parcel", "parcels", or "parcel of real property" includes without limitation a severed mineral interest.

(b)(1) Upon filing a suit to confirm title in severed mineral interests, the plaintiff shall:

(A) Undertake a search of the records listed in § 18-60-502 to identify persons entitled to notice; and

(B) Provide notice to all persons that have or claim to have an interest in the severed mineral interests.

(2) The interested persons shall be:

(A) Summoned as defendants in the case; and

(B) Served in the manner required for other civil actions.

(3) At a minimum, the following persons shall be made defendants in a suit to confirm title to severed mineral interests:

(A) All lessors and lessees identified in a recorded and unreleased oil, gas, or mineral lease pertaining to the severed mineral interests;

(B) All persons identified in the county real estate or county tax records as an owner of the severed mineral interests immediately

before forfeiture of the severed mineral interests for nonpayment of taxes; and

(C) All heirs, successors, and assigns of the persons described in subdivisions (b)(3)(A) or (b)(3)(B), if the persons are deceased or have assigned or otherwise transferred their interest in the severed mineral interests.

(c)(1) In any suit to confirm title in severed mineral interests, proof that the forfeiture or conveyance sought to be confirmed is void and not merely voidable is a conclusive defense to the suit.

(2) Proof that the forfeiture or conveyance sought to be confirmed is merely voidable but not void shall be considered by the court and determined on the facts as justice and equity requires.

History. Acts 1993, No. 646, § 8; 2011, No. 1133, § 6; 2013, No. 1135, § 7.

Amendments. The 2013 amendment rewrote (a)(2).

CHAPTER 39

SETTLEMENT OF MONEYS COLLECTED

SUBCHAPTER.

Subchapter 2 — Payment of Funds Generally

SECTION.

26-39-201. Time for payment.

(a)(1) A county clerk, probate clerk, circuit clerk, county sheriff, county collector, or any other county official shall pay over to the county treasurer on the first of each month, or within ten (10) working days thereafter, all funds in his or her possession belonging to the county or its subdivisions that are by law required to be paid into the county treasury, whether taxes, fines, or any moneys that are collected for any purpose by law and belonging to the county.

(2) Inmate commissary trust accounts held by the county sheriff are not deemed county funds and are not subject to this section.

(b)(1) This section does not mean that the county collector shall make a distribution of taxes to all funds but that he or she shall settle with the county treasurer in a lump sum, and the county treasurer shall credit it to the county collector's unapportioned account.

(2) Upon the issuance of a certificate of the county clerk or other county officer designated pursuant to § 26-28-102(a) that is issued on or before the thirtieth day of each month, the county treasurer shall transfer to the various funds ninety percent (90%) of the advance payments made by the county collector during the collecting period and, upon final settlement, the proper adjustments shall be made with the various accounts, and the balance remaining in the unapportioned

account shall be distributed upon order of the county court approving the final settlement of the county collector.

History. Acts 1935, No. 282, § 7; Pope's Dig., § 13905; Acts 1973, No. 160, § 1; A.S.A. 1947, § 84-1401; Acts 1995, No. 856, § 1; 2009, No. 721, § 2; 2011, No. 617, § 4; 2013, No. 1158, § 4.

Amendments. The 2013 amendment rewrote (a)(2).

SUBTITLE 5. STATE TAXES

CHAPTER 50
GENERAL PROVISIONS

SECTION.

26-50-101. Definitions.

(a) As used in §§ 26-26-1501 — 26-26-1504, 26-51-303, 26-51-407, 26-51-408, 26-52-305, and 26-53-110, unless the context otherwise requires:

(1) "Business corporation" means a corporation incorporated under the Arkansas Business Corporation Act, § 4-26-101 et seq.;

(2) "Financial institution" means a state bank or national bank, a savings and loan association, or a building and loan association as defined in this section;

(3) "National bank" means a bank chartered under the banking laws of the United States;

(4) "Savings and loan association" or "building and loan association" means any financial institution or association established and operating under the authority of § 23-37-101 et seq., § 23-37-706, or under any other appropriate state or federal law; and

(5) "State bank" means a bank, trust company, or savings bank chartered under the banking laws of this state.

(b)(1) It is the purpose of §§ 26-26-1501 — 26-26-1504, 26-51-303, 26-51-407, 26-51-408, 26-52-305, and 26-53-110 to clarify the law relating to the taxation of state and national banks and savings and loan and building and loan associations chartered under state and federal law and to simplify and to broaden the tax base applicable to such financial institutions.

(2) It is the intent of §§ 26-26-1501 — 26-26-1504, 26-51-303, 26-51-407, 26-51-408, 26-52-305, and 26-53-110 to repeal the capital stock tax and, in lieu thereof, to tax state and national banks, savings and loan associations and building and loan associations, under the existing tax laws generally applicable to business corporations.

History. Acts 1973, No. 182, §§ 1, 2; A.S.A. 1947, §§ 84-487n, 84-2087; Acts 2013, No. 1144, § 6.

Amendments. The 2013 amendment deleted "and § 23-38-101 et seq" following "§ 23-37-706" in (a)(4).

CHAPTER 51

INCOME TAXES

Subchapter 2 — Imposition of Tax

26-51-201. Individuals, trusts, and estates.

(a) For tax years beginning on and after January 1, 2012, a tax is imposed upon, and with respect to, the entire income of every resident, individual, trust, or estate. The tax shall be levied, collected, and paid annually upon the entire net income as defined and computed in this chapter at the following rates, giving effect to the tax credits provided hereafter, in the manner set forth:

(1)(A) On the first four thousand ninety-nine dollars ($4,099) of net income or any part thereof, one percent (1%).

(B) For tax years beginning on and after January 1, 2014, on the first four thousand ninety-nine dollars ($4,099) of net income or any part thereof, nine-tenths percent (0.9%);

(2)(A) On the next four thousand one hundred dollars ($4,100) of net income or any part thereof, two and five-tenths percent (2.5%).

(B) For tax years beginning on and after January 1, 2015, on the next four thousand one hundred dollars ($4,100) of net income or any part thereof, two and four-tenths percent (2.4%);

(3)(A) On the next four thousand dollars ($4,000) of net income or any part thereof, three and five-tenths percent (3.5%).

(B) For tax years beginning on and after January 1, 2015, on the next four thousand dollars ($4,000) of net income or any part thereof, three and four-tenths percent (3.4%);

(4)(A) On the next eight thousand two hundred dollars ($8,200) of net income or any part thereof, four and five-tenths percent (4.5%).

(B) For tax years beginning on and after January 1, 2015, on the next eight thousand two hundred dollars ($8,200) of net income or any part thereof, four and four-tenths percent (4.4%);

(5)(A) On the next thirteen thousand six hundred dollars ($13,600) of net income or any part thereof, six percent (6%).

(B) For tax years beginning on and after January 1, 2015, on the next thirteen thousand six hundred dollars ($13,600) of net income or any part thereof, five and nine-tenths percent (5.9%); and

(6)(A) On net income of thirty-four thousand dollars ($34,000) and above, seven percent (7%).

(B) For tax years beginning on and after January 1, 2015, on net income of thirty-four thousand dollars ($34,000) and above, six and nine-tenths percent (6.9%).

(b) However, no state income tax shall be due this state from a trust or estate created by a nonresident donor, trustor, or settlor, or by a nonresident testator even though administered by a resident trustee or personal representative except on income derived from:

(1) Lands situated in this state, including gains from any sale thereof;

(2) Any interest in lands situated in this state, including, without limitation, chattels real, including gains from any sale thereof;

(3) Tangible personal property located in Arkansas, including gains from any sale thereof; and

(4) Unincorporated businesses domiciled in Arkansas.

(c) No income tax shall be due the State of Arkansas from a nonresident beneficiary on income received from a trust being administered by a resident trustee except on income derived by the trust from:

(1) Lands situated in this state, including gains from any sale thereof;

(2) Any interest in lands situated in this state, including, without limitation, chattels real, including gains from any sale thereof;

(3) Tangible personal property located in Arkansas, including gains from any sale thereof; and

(4) Unincorporated businesses domiciled in Arkansas.

(d)(1) The Director of the Department of Finance and Administration shall prescribe annually a table which shall apply in lieu of the table contained in subsection (a) of this section with respect to each succeeding taxable year. The director shall increase the minimum and maximum dollar amounts for each rate bracket, rounding to the nearest one hundred dollars ($100), for which a tax is imposed under the table by the cost-of-living adjustment for each calendar year and by not changing the rate applicable to any rate bracket as adjusted.

(2) For purposes of subdivision (d)(1) of this section, the cost-of-living adjustment for a calendar year is the percentage, if any, by which the CPI for the current calendar year exceeds the CPI for the preceding calendar year, not to exceed three percent (3%). The CPI for any calendar year is the average of the Consumer Price Index as of the close of the twelve-month period ending on August 31 of such calendar year. "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor.

(3) The new tables, as adjusted annually, shall be used by the director in preparing the income tax withholding tables pursuant to § 26-51-907.

History. Acts 1929, No. 118, Art. 2, § 3; Pope's Dig., § 14026; Acts 1957, No. 20, § 1; 1961, No. 34, § 1; 1967, No. 46, § 1; 1971, No. 221, § 1; 1973, No. 215, §§ 1, 2; A.S.A. 1947, § 84-2003; Acts 1997, No. 328, § 5; 2013, No. 1459, §§ 1, 2.

Amendments. The 2013 amendment added "For tax years beginning on and after January 1, 2012" at the beginning of the introductory language of (a); added (a)(1)(B), (2)(B), (3)(B), (4)(B), (5)(B), and (6)(B); substituted "four thousand ninety-nine dollars ($4,099)" for "two thousand nine hundred ninety-nine dollars ($2,999)" in (a)(1)(A); rewrote (a)(2)(A), (3)(A), and (4)(A); substituted "thirteen thousand six hundred dollars ($13,600)" for "ten thousand dollars ($10,000)" in (a)(5)(A); and substituted "thirty-four thousand dollars ($34,000)" for "twenty-five thousand dollars ($25,000)" in (a)(6)(A); rewrote (d)(1); substituted "current calendar year exceeds the CPI for the preceding calendar year" for "calendar year preceding the taxable year exceeds the CPI for the calendar year 1997" in (d)(2); and substituted "annually" for "shall apply for tax returns filed for taxable year 1999 and thereafter, and" in (d)(3).

26-51-205. Corporations — Work Force 2000 Development Fund.

A.C.R.C. Notes. Acts 2013, No. 1397, § 21, provided: "WORK FORCE 2000 DEVELOPMENT FUND PROCEDURES. After the amounts to be made available to the various technical colleges have been determined as set out in Arkansas Code 26-51-205(d)(2), such documents as may be necessary shall be processed so that funds may be transferred from the Work Force 2000 Development Fund to the State Treasury fund or fund account from which the technical college draws its general revenue support. Such funds as may be transferred shall not exceed 93.691% of the total funds available from the Work Force 2000 Development Fund during the fiscal year.

"In the event that a technical institute or comprehensive lifelong learning center which receives support from the Work Force 2000 Development Fund as determined by law transfers or merges into the Arkansas Technical College and Community College System for which Work Force 2000 Development Fund monies are determined by law, then the actual amount of support from the Work Force 2000 Development Fund in the preceding fiscal year for such educational institution shall be made available irrespective of any other provision of law which sets out maximum levels of support from such fund.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1443, § 63, provided: "WORK FORCE 2000 DISTRIBUTION. After the amount to be made available to a technical college, technical institute or comprehensive lifelong learning center has been determined, as provided by law, the Chief Fiscal Officer of the State shall process the documents necessary so that the funds may be transferred from the Work Force 2000 Development Fund to the State Treasury fund or fund account from which the technical college, technical institute, or comprehensive lifelong learning center draws its general revenue support. The Chief Fiscal Officer of the State shall also cause an equal amount of the appropriation provided for Technical Colleges Accreditation and Vo-Tech Accreditation in Section 27 of this Act to be transferred to the institutions' appropriate line item appropriation or allocation, there to be supplemental and in addition to those appropriations or allocations provided by the General Assembly for personal services and operating expenses of the institution from the State Treasury Fund or fund account.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1443, § 76, provided: "WORK FORCE 2000 DISTRIBUTION. After the amounts to be made available to the various technical institutes or comprehensive lifelong learning centers have been determined as set out in Arkansas Code 26-51-205(d)(2), such documents as may be necessary shall be processed so that funds may be transferred from the Work Force 2000 Development Fund to the State Treasury fund or fund account from which the technical institute or com-

prehensive lifelong learning center draws its general revenue support. Such funds as may be transferred shall not exceed 6.309% of the total funds available from the Work Force 2000 Development Fund during each fiscal year.

"In the event that a technical college, community college or educational institution which receives support from the Work Force 2000 Development Fund as determined by law transfers from the Arkansas Technical College and Community College System for which Work Force 2000 Development Fund monies are determined by law, then the actual amount of support from the Work Force 2000 Development Fund in the preceding fiscal year for such educational institution shall be made available irrespective of any other provision of law which sets out maximum levels of support from such fund.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Subchapter 3 — Exemptions and Reduced Tax Rates

Effective Dates. Acts 2013, No. 1408, § 2: Jan. 1, 2014. Effective date clause provided: "Section 1 of this act is effective for tax years beginning on or after January 1, 2014."

Acts 2013, No. 1418, § 2: Jan. 1, 2013. Effective date clause provided: "This act is effective for tax years beginning on and after January 1, 2013."

26-51-306. Compensation and benefits from military service. [Effective January 1, 2014.]

(a)(1)(A) For tax years beginning before January 1, 2007, no member of the armed services of the United States shall be liable for or required to pay any income tax on the first six thousand dollars ($6,000) of service pay or allowances.

(B)(i) For tax years 2005 and 2006, enlisted personnel of the armed services of the State of Arkansas or of the United States shall not be liable for or required to pay any income tax on the first nine thousand dollars ($9,000) of service pay or allowances.

(ii) For tax years 2005 and 2006, an officer or a warrant officer of the armed services of the State of Arkansas or of the United States is only entitled to the exemption in subdivision (a)(1)(A) of this section and is not entitled to the exemption in subdivision (a)(1)(B)(i) of this section.

(C) For tax years beginning on and after January 1, 2007, any member of the armed services of the State of Arkansas or the United States is not liable for or required to pay any income tax on the first nine thousand dollars ($9,000) of service pay or allowance.

(D)(i) For tax years beginning on or after January 1, 2014, the service pay or allowance received by an active duty member of the

armed services is exempt from the income tax imposed under this chapter.

(ii) "Active duty member of the armed services" means all members of the armed forces, including the National Guard and Reserve units.

(2) The compensation and benefits are declared exempt, to the extent of the amounts provided in subdivision (a)(1) of this section, from the state income tax.

(3) All service pay or allowances of members of the armed services of the State of Arkansas or the United States in excess of the amounts provided in subdivision (a)(1) of this section shall be subject to the state income tax, unless otherwise provided for in this section.

(4)(A) Title 26 U.S.C. §§ 112 and 692, as in effect on January 1, 2007, regarding combat zone compensation of members of the armed forces and income taxes of members of the armed forces on death are adopted.

(B) The provisions contained in 26 U.S.C. § 112 are in addition to all other provisions contained in this section.

(b) Nothing in this section shall exempt from taxation the income of members of the armed services derived from other sources than their service pay and allowances.

(c) As used in this section, "armed services" means any and all members of the National Guard, reserve components of the armed forces, United States Army, Navy, Marine Corps, Coast Guard, Air Force, and any and all other branches of the military and naval forces or auxiliaries.

History. Acts 1943, No. 61, §§ 1-3; 1971, No. 226, § 1; 1973, No. 587, § 1; A.S.A. 1947, §§ 84-2009 — 84-2011; Acts 1989 (3rd Ex. Sess.), No. 27, § 2; 1991, No. 386, § 1; 1997, No. 951, § 19; 2005, No. 29, § 1; 2005, No. 2187, § 2; 2007, No. 160, § 1; 2007, No. 218, § 11; 2013, No. 1408, § 1.

Publisher's Notes. For version of section effective until January 1, 2014, see the bound volume.

Amendments. The 2013 amendment inserted (a)(1)(D).

Effective Dates. Acts 2013, No. 1408, § 2: Jan. 1, 2014. Effective date clause provided: "Section 1 of this act is effective for tax years beginning on or after January 1, 2014."

26-51-313. Qualified drop-in biofuels manufacturing exemption.

(a) There is allowed an exemption from the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., for the period of time determined under subsection (b) of this section for a qualified drop-in biofuels manufacturer.

(b) The number of years that an income tax exemption is allowed under this section is calculated as follows:

(1)(A) Multiply the proposed average hourly wage to be paid by the qualified drop-in biofuels manufacturer by two thousand eighty (2,080) hours.

(B) Multiply the product obtained under subdivision (b)(1)(A) of this section by the number of jobs to be created by the qualified

drop-in biofuels manufacturer to determine the proposed annual payroll;

(2)(A) Multiply one hundred ten percent (110%) of the state's average hourly wage from the preceding calendar year by two thousand eighty (2,080) hours.

(B) Multiply the product obtained under subdivision (b)(2)(A) of this section by one thousand (1,000);

(3) Divide the product calculated under subdivision (b)(1) of this section by the product calculated under subdivision (b)(2) of this section;

(4) Multiply the quotient calculated under subdivision (b)(3) of this section by six-tenths (0.6) to determine the weighting factor for payroll;

(5) Divide the proposed investment of the qualified drop-in biofuels manufacturer by two hundred fifty million dollars ($250,000,000);

(6) Multiply the quotient calculated under subdivision (b)(5) of this section by four-tenths (0.4) to determine the weighting factor for investment;

(7) Add the product calculated under subdivision (b)(4) of this section to the product calculated under subdivision (b)(6) of this section; and

(8)(A) Multiply the sum calculated under subdivision (b)(7) of this section by twenty (20) and round to the nearest whole number.

(B) The number calculated under subdivision (b)(8)(A) of this section is the number of years that the income tax exemption is allowed for the qualified drop-in biofuels manufacturer.

(C) However, an income tax exemption allowed under this section shall not exceed twenty (20) years.

(c) As used in this section:

(1) "Drop-in biofuels" means a liquid motor fuel that:

(A) Is a substitute for conventional petroleum-based motor fuel;

(B) Is completely interchangeable and compatible with conventional petroleum-based motor fuel;

(C) Does not require modification of conventional engine fuel systems; and

(D) Can be delivered through the existing fuel distribution systems, including without limitation:

(i) Intrastate and interstate petroleum pipelines; and

(ii) Existing gasoline and diesel fuel pumps; and

(2) "Qualified drop-in biofuels manufacturer" means a person or entity that:

(A) Manufactures drop-in biofuels;

(B) Invests at least twenty million dollars ($20,000,000) in a new or expanded drop-in biofuels manufacturing facility;

(C) Creates at least one hundred (100) new jobs;

(D) If the new or expanded drop-in biofuels manufacturing facility is a subsidiary of an existing Arkansas company, establishes the new or expanded drop-in biofuels facility as a separate legal entity;

(E) Locates the new or expanded drop-in biofuels facility in the state after January 1, 2013, but before June 30, 2023; and

(F) Signs a financial incentive agreement with the Arkansas Economic Development Commission after January 1, 2013, but before June 30, 2023.

(d) The ability to qualify for an income tax exemption under this section expires June 30, 2023.

History. Acts 2013, No. 1418, § 1.

Effective Dates. Acts 2013, No. 1418, § 2: Jan. 1, 2013. Effective date clause provided: "This act is effective for tax years beginning on and after January 1, 2013."

Subchapter 4 — Computation of Tax Liability

Effective Dates. Acts 2013, No. 1254, § 17, provided:

"(a) Sections 5-8 and 10 of this act apply retroactively to tax years 10 beginning on or after January 1, 2012.

"(b) Sections 1-4, 9, and 11-16 of this act are effective for tax years 12 beginning on or after January 1, 2013."

Acts 2013, No. 1284, § 2: Jan. 1, 2013. Effective date clause provided: "This act is effective for tax years beginning on or after January 1, 2013."

Acts 2013, No. 1452, § 3: Jan. 1, 2014. Effective date clause provided: "Sections 1 and 2 of this act are effective for tax years beginning on and after January 1, 2014."

Acts 2013, No. 1488, § 3: Jan. 1, 2014. Effective date clause provided: "This act is effective for tax years beginning on and after January 1, 2014."

26-51-404. Gross income generally.

(a)(1) "Gross income" includes:

(A) Gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid;

(B) Gains, profits, and income derived from professions, vocations, trades, business, commerce, or sales;

(C) Gains, profits, and income derived from dealings in property, whether real or personal, growing out of the ownership of, use of, or interest in the property;

(D) Gains, profits, and income derived from interest, rent, royalties, dividends, annuities, securities, or the transaction of any business carried on for gain or profit;

(E) Gains or profits and income derived from any source whatever; and

(F) Any payments of alimony and separate maintenance received pursuant to a court order.

(2) The amount of all such items shall be included in the gross income of the taxable year in which received by the taxpayer.

(3) Any recovery of an amount which was deducted from gross income in a prior year must be treated as taxable income in the year recovered to the extent that the deduction resulted in a reduction in income tax liability.

(4) Title 26 U.S.C. § 117, as in effect on January 2, 2013, regarding the taxability of scholarships, fellowships, grants, and stipends, is adopted for the purpose of clarifying and calculating Arkansas income tax liability.

(b) "Gross income" does not include the following items, which shall be exempt from taxation under the Income Tax Act of 1929, § 26-51-101 et seq.:

(1) Title 26 U.S.C. § 1033, as in effect on January 1, 2009, relating to the exclusion from gross income of gain resulting from the involuntary conversion of a taxpayer's property, is adopted for the purpose of computing Arkansas income tax liability;

(2) Title 26 U.S.C. § 121, as in effect on January 1, 2009, relating to the exclusion from gross income of gain from the sale or exchange of property owned and used as the taxpayer's principal residence, is adopted for the purpose of computing Arkansas income tax liability;

(3) Title 26 U.S.C. § 101, as in effect on January 1, 2007, relating to the exclusion from gross income of proceeds or benefits paid upon the illness or death of the insured, is hereby adopted for the purpose of computing Arkansas income tax liability;

(4) The value of property acquired by gift, bequest, devise, or descent, but the income from such property shall be included in gross income;

(5) Interest upon obligations of the United States or its possessions or upon obligations of the State of Arkansas or any political subdivision of the State of Arkansas;

(6) Any:

(A) Amounts received through accident or health insurance or under workers' compensation acts as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement, on account of such injuries or sickness; or

(B) Social security payments, railroad retirement benefits, unemployment compensation benefits paid from federal unemployment trust funds, unemployment insurance benefits received from the railroad retirement boards, and unemployment compensation paid under Title IV of the Social Security Act, 42 U.S.C. § 601 et seq.;

(7)(A) Income from domestic corporations when earned from sources without the state, and these sources shall be defined to mean places of manufacture or production and places of merchandising.

(B) When books of account do not clearly and accurately reflect the income earned from sources without the state, the Arkansas income shall be determined by processes or formulas of general apportionment prescribed by the Director of the Department of Finance and Administration and approved by the Governor;

(8) Dividends received by a corporation doing business within this state from a subsidiary if at least eighty percent (80%) of the subsidiary's capital stock is owned by a corporation doing business within this state;

(9) In the case of an ordained, commissioned, or licensed minister of a recognized church, 26 U.S.C. § 107, as in effect on January 2, 2013, regarding the rental value of parsonages, is adopted for the purpose of computing Arkansas income tax liability;

(10) Title 26 U.S.C. §§ 108 and 1017, as in effect on January 2, 2013, regarding income from the discharge of indebtedness, are adopted for the purpose of computing Arkansas income tax liability;

(11) Title 26 U.S.C. § 125, in effect on January 1, 2011, is adopted in computing amounts excludible from gross income under the Income Tax Act of 1929, § 26-51-101 et seq., for payments received under a cafeteria plan;

(12)(A) Title 26 U.S.C. § 129, as in effect on January 1, 2005, regarding the exclusion from income for dependent care assistance, is adopted for the purpose of computing Arkansas income tax liability.

(B) However, no amounts excluded from gross income pursuant to subdivision (b)(12)(A) of this section shall be taken into account in computing the dependent care credit contained in § 26-51-502;

(13) Title 26 U.S.C. § 79, as in effect on January 1, 1989, regarding the exclusion from income for group term life insurance is hereby adopted for the purpose of computing Arkansas income tax liability;

(14) The following sections of the Internal Revenue Code, 26 U.S.C. § 1 et seq., regarding the exclusion from income of disability and health plan payments, are adopted for the purpose of computing Arkansas income tax liability:

(A) Title 26 U.S.C. §§ 104 and 106, as in effect on January 1, 2011; and

(B) Title 26 U.S.C. § 105, as in effect on March 30, 2010;

(15) Title 26 U.S.C. § 82, as in effect on January 1, 1995, regarding the inclusion in gross income of moving expense reimbursements, is adopted for the purpose of computing Arkansas income tax liability;

(16) Title 26 U.S.C. § 119, as in effect on January 1, 1999, regarding the exclusion from gross income of meals or lodging furnished for the convenience of the employer, is adopted for the purpose of computing Arkansas income tax liability;

(17) Title 26 U.S.C. § 126, as in effect on January 1, 1995, regarding the exclusion from gross income of certain cost-sharing payments, is adopted for the purpose of computing Arkansas income tax liability;

(18) Title 26 U.S.C. § 131, as in effect on January 1, 2003, regarding the exclusion from gross income of amounts received by a foster care provider as qualified foster care payments, is adopted for the purpose of computing Arkansas income tax liability;

(19) Title 26 U.S.C. § 132, as in effect on January 2, 2013, regarding the exclusion from income of certain fringe benefits, is adopted for the purpose of computing Arkansas income tax liability;

(20) Title 26 U.S.C. § 127, as in effect on January 2, 2013, regarding the exclusion from gross income for employees whose education expenses were paid by an employer, is adopted for the purpose of computing Arkansas income tax liability;

(21) Interest or dividends earned or capital gains recognized on a long-term intergenerational security trust created pursuant to this subchapter, except as provided in this subchapter;

(22) Interest or dividends earned on an individual development account and matching funds deposited in an individual development account pursuant to the Family Savings Initiative Act, § 20-86-101 et seq.;

(23) Title 26 U.S.C. § 138, as in effect on January 1, 1999, regarding a pilot program permitting eligible senior citizens to establish Medicare Plus Choice medical savings accounts, is adopted for the purpose of computing Arkansas income tax liability;

(24)(A) Title 26 U.S.C. § 72, as in effect on January 1, 2007, relating to the exclusion from gross income of certain proceeds received under life insurance, endowment, and annuity contracts, is adopted for the purpose of computing Arkansas income tax liability.

(B)(i) Annuity income received through an employment-related retirement plan shall not be subject to the provisions of this subsection.

(ii) The income shall instead be subject to the retirement income provisions of § 26-51-307;

(25) Title 26 U.S.C. § 137, as in effect on January 2, 2013, regarding the exclusion from gross income of benefits received under an employer's adoption assistance program, is adopted for the purpose of computing Arkansas income tax liability;

(26) Contributions by an employer to an employee's health savings account within the limitations established in § 26-51-453 shall not be included in the employee's gross income;

(27) Title 26 U.S.C. § 134, as in effect on January 1, 2009, regarding the exclusion from income of qualified military benefits provided to members of the United States military, is adopted for the purpose of computing Arkansas income tax liability; and

(28) Title 26 U.S.C. § 408(d)(8) as in effect on January 1, 2007, relating to tax-free distributions from individual retirement plans for charitable purposes for taxable years 2006 and 2007, is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1929, No. 118, Art. 3, § 8; Pope's Dig., § 14031; Acts 1939, No. 324, § 1; 1941, No. 129, § 6; 1953, No. 230, § 1; 1957, No. 144, §§ 1, 2; 1965, No. 570, § 1; 1967, No. 222, § 1; 1969, No. 462, § 1; 1971, No. 226, § 2; 1975, No. 683, § 1; 1977, No. 898, § 2; 1981, No. 817, § 1; 1981, No. 914, § 3; 1983, No. 379, §§ 3, 6; 1985, No. 486, § 5; A.S.A. 1947, § 84-2008; Acts 1987, No. 382, §§ 4, 7-11, 32; 1987 (1st Ex. Sess.), No. 48, § 1; 1989, No. 826, §§ 9, 10, 18-21; 1995, No. 560, § 1; 1995, No. 732, § 1; 1995, No. 1160, §§ 8, 10, 11; 1995, No. 1303, § 4; 1997, No. 328, § 7; 1997, No. 951, §§ 3-5, 6, 22, 23; 1997, No. 1189, § 1; 1999, No. 1126, §§ 16-23; 1999, No. 1217, § 10; 2001, No. 773, § 3; 2003, No. 663, §§ 2-6; 2005, No. 94, §§ 2, 3; 2005, No. 189, § 2; 2005, No. 675, §§ 2-5; 2007, No. 196, § 1; 2007, No. 218, §§ 16, 17; 2009, No. 372, §§ 4-9; 2011, No. 787, §§ 9-14; 2013, No. 1254, §§ 1–4.

Amendments. The 2013 amendment substituted "January 2, 2013" for "January 1, 2011" throughout the section; deleted (9)(A) and (9)(B); added "26 U.S.C. § 107, as in effect on January 2, 2013, regarding the rental value of parsonages, is adopted for the purpose of computing Arkansas income tax liability" to the end of (9); and substituted "January 2, 2013" for "January 1, 2009" in (19).

Effective Dates. Acts 2013, No. 1254, § 17(b): Jan. 1, 2013. Effective date clause provided: "Sections 1-4, 9, and 11-16 of this act are effective for tax years beginning on or after January 1, 2013."

26-51-409. Federal Subchapter S adopted.

(a) Subchapter S of the Internal Revenue Code, 26 U.S.C. § 1361 et seq., as in effect on January 2, 2013, regarding small business corporations, is adopted for the purpose of computing Arkansas income tax liability.

(b)(1) The corporate election and shareholder consents required to be filed under Subchapter S of the Internal Revenue Code, 26 U.S.C. § 1361 et seq., for Arkansas income tax purposes shall be filed with the Director of the Department of Finance and Administration in the same manner and at the same time as required under Subchapter S of the Internal Revenue Code, 26 U.S.C. § 1361 et seq., on forms to be prescribed by the director.

(2) A corporation may elect Subchapter S treatment for Arkansas income tax purposes only if it has elected Subchapter S treatment for federal income tax purposes for the same tax year.

(3) When filing an Arkansas Subchapter S income tax return, a corporation shall attach to its Arkansas Subchapter S income tax return a complete copy of the corporation's federal Subchapter S income tax return filed with the Internal Revenue Service for that taxable year.

(c)(1) However, all nonresident shareholders of S corporations receiving a prorated share of income, loss, deduction, or credit pursuant to the provisions of this section must file a properly executed state income tax return with the director and remit the applicable state income tax due.

(2) Failure to so report and remit on the part of any nonresident shareholder shall be grounds upon which the director may revoke the corporation's Subchapter S election and collect the tax from the corporation by any manner authorized by the Income Tax Act of 1929, § 26-51-101 et seq.

History. Acts 1979, No. 414, § 1; 1983, No. 51, §§ 1, 3; A.S.A. 1947, § 84-2004.1; Acts 1987, No. 382, § 3; 1989, No. 826, § 22; 1991, No. 685, § 2; 1993, No. 785,

§ 7; 1997, No. 951, § 17; 1999, No. 1126, § 24; 2003, No. 663, § 7; 2005, No. 261, § 1; 2005, No. 675, § 6; 2007, No. 218, § 18; 2007, No. 380, § 1; 2009, No. 372, § 10; 2011, No. 787, § 15; 2013, No. 1254, § 5.

Amendments. The 2013 amendment substituted "January 2, 2013" for "January 1, 2011" in (a).

Effective Dates. Acts 2013, No. 1254, § 17(a): Jan. 1, 2012. Effective date clause provided: "Sections 5-8 and 10 of this act apply retroactively to tax years beginning on or after January 1, 2012."

26-51-414. Deferred compensation plans.

(a)(1) The following sections relating to annuities, retirement savings, and employee benefit plans are adopted for the purpose of computing Arkansas income tax liability, except Arkansas capital gains treatment and the Arkansas tax rates shall apply:

(A) Title 26 U.S.C. §§ 72, 219, 402-404, 406-416, and 457, as in effect on January 2, 2013; and

(B) Title 26 U.S.C. § 401, as in effect on March 30, 2010.

(2) The requirements for filing a joint return under 26 U.S.C. § 219(c)(1)(A) shall not apply.

(b) Title 26 U.S.C. § 408A as in effect on January 1, 2010, relating to Roth individual retirement accounts, is adopted for the purpose of computing Arkansas income tax liability, except with regard to adjusted gross income under 26 U.S.C. § 408A(c)(3), which shall be determined in the same manner as under § 26-51-403(b).

(c) Any additional tax or penalty imposed by this section shall be ten percent (10%) of the amount of any additional tax or penalty provided in the federal income tax law adopted by this section.

(d) Title 26 U.S.C. § 1042, as in effect on January 1, 2003, regarding the deferral of gain realized on the sale of a corporation's shares of stock to the corporation's employee stock ownership plan (ESOP), is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1959, No. 202, § 2; 1983, No. 379, § 13; 1986 (2nd Ex. Sess.), No. 20, § 1; A.S.A. 1947, § 84-2049; Acts 1987, No. 382, § 27; 1987 (1st Ex. Sess.), No. 48, § 2; 1989, No. 826, § 24; 1991, No. 685, § 4; 1995, No. 1160, § 6; 1997, No. 951, § 2; 1999, No. 144, § 1; 1999, No. 513, § 1; 2003, No. 218, § 1; 2003, No. 663, § 8; 2005, No. 94, § 4; 2007, No. 218, § 21; 2009, No. 372, § 12; 2011, No. 787, §§ 16, 17; 2013, No. 1254, § 6.

Amendments. The 2013 amendment substituted "January 2, 2013" for "January 1, 2011" in (a)(1)(A).

Effective Dates. Acts 2013, No. 1254, § 17(a): Jan. 1, 2012. Effective date clause provided: "Sections 5-8 and 10 of this act apply retroactively to tax years beginning on or after January 1, 2012."

26-51-415. Deductions — Interest.

Title 26 U.S.C. § 163, as in effect on January 2, 2013, regarding deductions for interest expenses, is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1929, No. 118, Art. 3, § 13; Pope's Dig., § 14036; Acts 1957, No. 147, § 1; 1975, No. 972, § 1; 1977, No. 898, § 1; A.S.A. 1947, § 84-2016; Acts 1987, No. 382, § 15; 1989, No. 826, § 25; 1991, No. 686, § 1; 1995, No. 1160, § 3;

1997, No. 951, § 11; 1999, No. 1126, § 28; 2007, No. 218, § 22; 2009, No. 372, § 13; 2011, No. 787, § 18; 2013, No. 1254, § 7.

Amendments. The 2013 amendment substituted "January 2, 2013" for "January 1, 2011."

Effective Dates. Acts 2013, No. 1254, § 17(a): Jan. 1, 2012. Effective date clause provided: "Sections 5-8 and 10 of this act apply retroactively to tax years beginning on or after January 1, 2012."

26-51-419. Deductions — Charitable contributions.

(a)(1) Title 26 U.S.C. § 170, as in effect on January 2, 2013, regarding deductions for charitable contributions, is adopted for the purpose of computing Arkansas income tax liability.

(2) However, with respect to contributions of qualified appreciated stock within the meaning of 26 U.S.C. § 170(e)(5) made after May 31, 1997, the provisions of this section shall apply after taking into account the extension of the provisions of 26 U.S.C. § 170(e)(5) by § 602 of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, and § 1004(a) of the Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277.

(b) The provisions of subsection (a) of this section shall apply to a corporation that files an Arkansas consolidated corporation income tax return pursuant to § 26-51-805, provided that each member of the affiliated group shall follow the provisions of § 26-51-805(f) and calculate its contribution limits separately.

(c) For purposes of subsection (a) of this section, a cash contribution made in January 2005 for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami, for which a charitable contribution deduction is allowed under 26 U.S.C. § 170, may be treated as if the contribution were made on December 31, 2004, and not in January 2005.

History. Acts 1967, No. 25, § 2; 1983, No. 379, § 12; A.S.A. 1947, § 84-2016.3; Acts 1987, No. 382, § 22; 1989, No. 826, § 3; 1995, No. 1160, § 5; 1997, No. 951, § 13; 1999, No. 1126, § 29; 2001, No. 773, § 6; 2001, No. 1227, § 1; 2005, No. 53, § 1; 2005, No. 675, § 8; 2007, No. 218, § 23; 2009, No. 372, § 14; 2011, No. 787, § 19; 2013, No. 1254, § 8.

Amendments. The 2013 amendment substituted "January 2, 2013" for "January 1, 2011" in (a)(1); and deleted (a)(1)(B).

Effective Dates. Acts 2013, No. 1254, § 17(a): Jan. 1, 2012. Effective date clause provided: "Sections 5-8 and 10 of this act apply retroactively to tax years beginning on or after January 1, 2012."

26-51-423. Deductions — Expenses.

(a) In computing net income, there shall be allowed as deductions the following expenses:

(1) Business Expenses. All of 26 U.S.C. § 162, except subsection (n), as in effect on March 30, 2010, regarding trade or business expenses, is adopted for the purpose of computing Arkansas income tax liability;

(2) Medical and Dental Expenses. Title 26 U.S.C. § 213, as in effect on January 1, 2011, is adopted in computing the medical and dental expense deduction under the state income tax law;

(3) Travel Expenses. In determining travel expenses deductible as a business expense in computing net income as provided under subdivi-

sion (a)(1) of this section, the deduction for vehicle miles shall be determined by the Director of the Department of Finance and Administration under his or her regulatory authority in § 26-18-301; and

(4) Moving Expenses. Title 26 U.S.C. § 217, as in effect on January 1, 2011, regarding the deduction of moving expenses, is adopted for the purpose of computing Arkansas income tax liability.

(b) Title 26 U.S.C. § 274, as in effect on January 1, 2007, regarding the deductions of expenses for entertainment, amusement, recreation, business meals, travel, et cetera, is adopted for the purpose of computing Arkansas income tax liability.

(c)(1) An individual who is self-employed shall be allowed a deduction equal to the applicable percentage as set forth in 26 U.S.C. § 162(l)(1)(B) as in effect on January 1, 1999, of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his or her spouse, and his or her dependents.

(2)(A) No deduction shall be allowed under this subsection to the extent that the amount of the deduction exceeds the taxpayer's earned income derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established.

(B) This subsection shall not apply to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or the spouse of the taxpayer.

(3) Any amount paid by the taxpayer for insurance to which this subsection applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under subdivision (a)(2) of this section.

(d) Title 26 U.S.C. § 221, as in effect on January 2, 2013, regarding the deduction of interest paid on qualified education loans, is adopted for the purpose of computing Arkansas income tax liability.

(e) Title 26 U.S.C. § 198, as in effect on January 1, 2011, regarding the deduction of costs paid or incurred for the cleanup of certain hazardous substances, is adopted for the purpose of computing Arkansas income tax liability.

(f) Title 26 U.S.C. § 190, as in effect on January 1, 2001, regarding the deduction of costs paid or incurred to improve access to vehicles and facilities for handicapped and elderly persons, is adopted for the purpose of computing Arkansas income tax liability.

(g)(1) A deduction pursuant to subdivision (a)(1) of this section for interest or intangible-related expenses paid by the taxpayer to a related party shall be allowed only if:

(A) The interest or intangible-related income received by the related party is subject to income tax imposed by the State of Arkansas, another state, or a foreign government that has entered into a comprehensive income tax treaty with the United States;

(B) The interest or intangible-related income received by the related party was received pursuant to:

(i) An "arm's length" contract or at an "arm's length" rate of interest; and

(ii) A transaction not intended to avoid the payment of Arkansas income tax otherwise due;

(C) The taxpayer and the director enter into a written agreement prior to the due date of the taxpayer's Arkansas income tax return:

(i) Authorizing the taxpayer to take the deduction for the tax year at issue; or

(ii) Requiring the use of an alternative method of income apportionment by the taxpayer for the tax year at issue; or

(D) During the taxable year, the related party recipient of interest or intangible related income, in a location not described in subdivision (g)(1)(A) of this section, a "non-tax location":

(i) Operates an active trade or business in the non-tax location;

(ii) Has a minimum of fifty (50) full-time-equivalent employees in the non-tax location;

(iii) Owns real or tangible personal property with a fair market value in excess of one million dollars ($1,000,000) located in the non-tax location; and

(iv) Has revenues generated from sources within the non-tax location in excess of one million dollars ($1,000,000).

(2) "Related party" means a related party as defined by 26 U.S.C. § 267, as in effect on January 1, 2003.

(h) Title 26 U.S.C. § 194, as in effect on January 1, 2007, regarding the amortization of qualified reforestation expenses, is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1929, No. 118, Art. 3, § 13; Pope's Dig., § 14036; Acts 1957, No. 147, § 1; 1957, No. 550, § 1; 1967, No. 95, §§ 1, 2; 1968 (1st Ex. Sess.), No. 22, § 1; 1971, No. 457, § 1; 1975, No. 271, § 1; 1979, No. 912, § 1; 1981, No. 469, § 1; 1983, No. 379, §§ 8, 9; A.S.A. 1947, §§ 84-2016, 84-2016.11; Acts 1987, No. 382, §§ 14, 23, 25; 1989, No. 826, §§ 4, 26-28; 1991, No. 685, § 5; 1993, No. 785, § 8; 1995, No. 1160, § 2; 1997, No. 951, §§ 7-10; 1997, No. 1000, § 15; 1999, No. 1126, § 30; 2001, No. 773, § 8; 2003, No. 663, § 9; 2003, No. 1286, § 1; 2005, No. 675, § 9; 2007, No. 218, §§ 24, 25; 2009, No. 372, §§ 15, 16; 2011, No. 787, §§ 20-24; 2013, No. 1254, § 9.

Amendments. The 2013 amendment substituted "January 2, 1013" for "January 1, 2011" in (d).

Effective Dates. Acts 2013, No. 1254, § 17(b): Jan. 1, 2013. Effective date clause provided: "Sections 1-4, 9, and 11-16 of this act are effective for tax years beginning on or after January 1, 2013."

26-51-428. Depreciation — Deductions — Expensing of property. [Effective until contingency in Acts 2007, No. 613, § 2 is met.]

(a) Title 26 U.S.C. §§ 167, 168(a)-(j), and 179A, as in effect on January 2, 2013, and 26 U.S.C. § 179, as in effect on January 1, 2009, regarding depreciation and expensing of property, are adopted for the purpose of computing Arkansas income tax liability for property purchased in tax years beginning on or after January 1, 2012.

(b) The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect to any property shall be the adjusted basis

provided in § 26-51-411 for the purpose of determining the gain on the sale or other disposition of the property.

(c) Title 26 U.S.C. § 197, as in effect on January 1, 2007, regarding the amortization of goodwill and certain other intangibles, is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1929, No. 118, Art. 3, § 13; Pope's Dig., § 14036; Acts 1957, No. 147, § 1; 1957, No. 156, § 1; 1983, No. 379, §§ 8-11; 1983, No. 854; §§ 1, 5; A.S.A. 1947, §§ 84-2016, 84-2016.16; Acts 1987, No. 382, §§ 17, 32; 1989, No. 826, §§ 29, 30; 1991, No. 685, § 7; 1995, No. 1160, § 4; 1997, No. 951, § 12; 1999, No. 1126, § 33; 2007, No. 218, § 26; 2009, No. 372, § 18; 2013, No. 1254, § 10.

Amendments. The 2013 amendment, in (a), substituted "January 2, 2013" for "January 1, 2009" in the first instance and substituted "January 1, 2012" for "January 1, 2009" in the third instance.

Effective Dates. Acts 2013, No. 1254, § 17(a): Jan. 1, 2012. Effective date clause provided: "Sections 5-8 and 10 of this act apply retroactively to tax years beginning on or after January 1, 2012."

26-51-430. Deductions — Standard deduction. [Effective January 1, 2014.]

(a)(1) In lieu of itemizing deductions, each taxpayer may elect to use the standard deduction.

(2) In the case of a married couple, both spouses must elect to use the standard deduction or both spouses must claim itemized deductions, without regard to whether the spouses file separate returns or file separately on the same return.

(b)(1) The standard deduction shall be:

(A) For the tax year beginning January 1, 2014, two thousand dollars ($2,000) per taxpayer; and

(B) For tax years beginning on and after January 1, 2015, two thousand two hundred dollars ($2,200) per taxpayer.

(2) In the case of a married couple, each spouse shall be entitled to claim a standard deduction of:

(A) For the tax year beginning January 1, 2014, two thousand dollars ($2,000); and

(B) For tax years beginning on and after January 1, 2015, two thousand two hundred dollars ($2,200).

History. Acts 1929, No. 118, Art. 3, § 13; Pope's Dig., § 14036; Acts 1951, No. 124, § 1; 1957, No. 147, § 1; A.S.A. 1947, § 84-2016; Acts 1997, No. 328, § 1; 2003, No. 997, § 1; 2013, No. 1488, § 1.

Publisher's Notes. For version of section effective until January 1, 2014, see the bound volume.

Amendments. The 2013 amendment rewrote (b).

Effective Dates. Acts 2013, No. 1488, § 3: Jan. 1, 2014. Effective date clause provided: "This act is effective for tax years beginning on and after January 1, 2014."

26-51-440. Federal Subchapter M adopted.

(a)(1) Subchapter M of the Internal Revenue Code, 26 U.S.C. § 851 et seq., as in effect on January 2, 2013, relating to regulated investment companies, real estate investment trusts, real estate mortgage invest-

ment conduits, and financial asset securitization investment trusts, is adopted for the purpose of computing Arkansas income tax liability and shall govern all corporations that are registered as investment companies under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as in effect on January 2, 2013.

(2)(A) However, those provisions of Subchapter M of the Internal Revenue Code, 26 U.S.C. § 851 et seq., addressing the tax rates applied to financial asset securitization investment trust income are not adopted.

(B) Any financial asset securitization investment trust income subject to Arkansas income tax shall be taxed at the rates set forth in § 26-51-205.

(b) As used in this section:

(1)(A) "Captive real estate investment trust" means a real estate investment trust the shares or beneficial interests of which are not regularly traded on an established securities market and more than fifty percent (50%) of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly, indirectly, or constructively by a single entity that is:

(i) Treated as an association taxable as a corporation under the Internal Revenue Code, 26 U.S.C. § 1 et seq., as in effect on January 1, 2009; and

(ii) Not exempt from federal income tax under 26 U.S.C. § 501(a), as in effect on January 1, 2009.

(B) "Captive real estate investment trust" does not include a real estate investment trust that is intended to be regularly traded on an established securities market and that satisfies the requirements of 26 U.S.C. § 856(a)(5) and (6), as in effect on January 1, 2009, by reason of 26 U.S.C. § 856(h)(2), as in effect on January 1, 2009; and

(2) "Real estate investment trust" means the same as defined in 26 U.S.C. § 856, as in effect on January 1, 2009.

(c) For purposes of applying subdivision (b)(1)(A)(i) of this section, the following entities are not considered an association taxable as a corporation under the Internal Revenue Code, 26 U.S.C. § 1 et seq.:

(1) A real estate investment trust other than a captive real estate investment trust;

(2) A qualified real estate investment trust subsidiary under 26 U.S.C. § 856(i), as in effect on January 1, 2009, other than a qualified real estate investment trust subsidiary of a captive real estate investment trust;

(3) A listed Australian Property Trust, meaning an Australian unit trust registered as a Managed Investment Scheme under the Australian Corporations Act 2001 in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust; or

(4) A qualified Foreign Entity, meaning a corporation, trust, association, or partnership organized outside the laws of the United States and which satisfies the following criteria:

(A) At least seventy-five percent (75%) of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in 26 U.S.C. § 856(c)(5)(B), as in effect on January 1, 2009, including shares or certificates of beneficial interest in any real estate investment trust, cash and cash equivalents, and United States Government securities;

(B) The entity is not subject to tax on amounts distributed to its beneficial owners or is exempt from entity-level taxation;

(C) The entity distributes at least eighty-five percent (85%) of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis;

(D) More than ten percent (10%) of the voting power or value in the entity is not held directly, indirectly, or constructively by a single entity or individual, or the shares or beneficial interests of the entity are regularly traded on an established securities market; and

(E) The entity is organized in a country that has a tax treaty with the United States.

(d) The dividends-paid deduction otherwise allowed by federal law in computing net income of a real estate investment trust that is subject to federal income tax shall be added back in computing the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., if the real estate investment trust is a captive real estate investment trust.

(e)(1) A real estate investment trust that does not become regularly traded on an established securities market within one (1) year of the date on which it first became a real estate investment trust shall not be considered to have been regularly traded on an established securities market, retroactive to the date it first became a real estate investment trust, and the owner of the real estate investment trust shall file an amended return reflecting the retroactive designation for any tax year or part year occurring during its initial year of status as a real estate investment trust.

(2) Under this section, a real estate investment trust becomes a real estate investment trust on the first day that it has:

(A) Met the requirements of 26 U.S.C § 856 as in effect on January 1, 2009; and

(B) Elected to be treated as a real estate investment trust under 26 U.S.C. § 856(c)(1), as in effect on January 1, 2009, by the owner of the real estate investment trust.

(f) Under this section, the constructive ownership rules of 26 U.S.C. § 318(a), as in effect on January 1, 2009, as modified by 26 U.S.C. § 856(d)(5), as in effect on January 1, 2009, shall apply in determining the ownership of stock, assets, or net profits of a person.

(g) An election made for federal income tax purposes under Subchapter M of the Internal Revenue Code, 26 U.S.C. § 851 et seq., as in effect

on January 1, 2009, shall be deemed made for state income tax purposes.

(h) This section shall take effect and be enforced for tax years beginning on or after January 1, 2009.

History. Acts 1989, No. 583, § 5; 1995, No. 1160, § 13; 1997, No. 951, § 24; 1999, No. 1126, § 36; 2001, No. 773, § 10; 2007, No. 218, § 31; 2007, No. 827, § 217; 2009, No. 372, § 22; 2011, No. 787, § 29; 2013, No. 1254, § 11.

Amendments. The 2013 amendment, in (a)(1), substituted "January 2, 2013" for "January 1, 2011" twice and inserted "real estate mortgage investment conduits."

Effective Dates. Acts 2013, No. 1254, § 17(b): Jan. 1, 2013. Effective date clause provided: "Sections 1-4, 9, and 11-16 of this act are effective for tax years beginning on or after January 1, 2013."

26-51-445. Adoption expenses.

(a) Title 26 U.S.C. § 23, as in effect on January 2, 2013, and 26 U.S.C. § 36C, as in effect on January 2, 2013, are adopted for purposes of determining the allowable credit for adoption-related fees, costs, and expenses paid or incurred by a taxpayer.

(b)(1) The amount of credit allowed against Arkansas income tax due is twenty percent (20%) of the federal credit as calculated under 26 U.S.C. §§ 23 and 36C.

(2) The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of income tax otherwise due.

History. Acts 1995, No. 535, §§ 1-4; 1997, No. 951, § 32; 1999, No. 1126, § 38; 2003, No. 663, § 11; 2011, No. 787, § 30; 2013, No. 1254, § 12.

Amendments. The 2013 amendment, in (a), substituted "January 2, 2013" for "January 1, 2003" and for "January 1, 2011."

Effective Dates. Acts 2013, No. 1254, § 17(b): Jan. 1, 2013. Effective date clause provided: "Sections 1-4, 9, and 11-16 of this act are effective for tax years beginning on or after January 1, 2013."

26-51-448. Educational individual retirement accounts.

(a) Title 26 U.S.C. § 530, as in effect on January 2, 2013, relating to educational individual retirement accounts, is adopted for the purpose of computing Arkansas income tax liability.

(b) Any additional tax or penalty imposed by this section shall be ten percent (10%) of the amount of any additional tax or penalty provided in the federal income tax law adopted by this section.

History. Acts 1999, No. 513, § 2; 2003, No. 218, § 2; 2005, No. 675, § 13; 2009, No. 372, § 23; 2011, No. 787, § 31; 2013, No. 1254, § 13.

Amendments. The 2013 amendment substituted "January 2, 2013" for "January 1, 2011" in (a).

Effective Dates. Acts 2013, No. 1254, § 17(b): Jan. 1, 2013. Effective date clause provided: "Sections 1-4, 9, and 11-16 of this act are effective for tax years beginning on or after January 1, 2013."

26-51-457. Claim of right.

(a) Title 26 U.S.C. § 1341(a)(1)-(3) and (b)(2), as they existed on January 1, 2013, regarding the computation of income tax when a taxpayer restores a substantial amount held under a claim of right, is adopted for purposes of computing income tax liability under this chapter.

(b)(1) Title 26 U.S.C. § 1341(a)(4) and (5), (b)(1), and (b)(3)-(5), concerning the methods of calculating the deduction authorized under 26 U.S.C. § 1341 and special rules for net operating losses and capital losses, are not adopted.

(2) For the purpose of computing income tax when a taxpayer restores a substantial amount held under a claim of right under this section:

(A) The tax imposed under this chapter is calculated for the taxable year by allowing a deduction in the tax year the taxpayer restores the amount held under a claim of right; and

(B) Net operating losses and capital losses are calculated and deducted under §§ 26-51-427 and 26-51-815.

(c) The Director of the Department of Finance and Administration may promulgate rules to administer this section.

History. Acts 2013, No. 1284, § 1.

Effective Dates. Acts 2013, No. 1284, § 2: Jan. 1, 2013. Effective date clause provided: "This act is effective for tax years beginning on or after January 1, 2013."

26-51-458. Deduction — Volunteer firefighter. [Effective January 1, 2014.]

(a) In computing net income for the purposes of the Income Tax Act of 1929, § 26-51-101 et seq., there is allowed as a deduction in addition to all other deductions allowed by law for the:

(1) Amount paid by a volunteer firefighter and not reimbursed by the fire department or firefighting unit that the volunteer firefighter serves to purchase firefighting equipment required by the fire department or firefighting unit; and

(2) Loss of value of personal property of a volunteer firefighter that is damaged or destroyed in the course of his or her participation in fire suppression, rescue, pump operation, or other firefighting activity as a volunteer firefighter.

(b) The deduction allowed under subsection (a) of this section shall not exceed one thousand dollars ($1,000).

(c) As used in this section, "volunteer firefighter" means a member of a fire department or firefighting unit who:

(1) Actively engages in fire suppression, rescue, pump operation, or other firefighting activity; and

(2) Receives less than five thousand dollars ($5,000) in total compensation during the taxable year from the volunteer fire department or firefighting unit that the volunteer firefighter serves.

(d) The Director of the Department of Finance and Administration may promulgate rules to implement this section.

History. Acts 2013, No. 1452, § 2.

A.C.R.C. Notes. Acts 2013, No. 1452, § 1, provided: "This act shall be known and may be cited as the 'Volunteer Firefighter Tax Protection Act'."

Effective Dates. Acts 2013, No. 1452, § 3: Jan. 1, 2014. Effective date clause provided: "Sections 1 and 2 of this act are effective for tax years beginning on and after January 1, 2014."

Subchapter 5 — Tax Credits Generally

Effective Dates. Acts 2013, No. 1254, § 17, provided:
"(a) Sections 5-8 and 10 of this act apply retroactively to tax years 10 beginning on or after January 1, 2012.

"(b) Sections 1-4, 9, and 11-16 of this act are effective for tax years 12 beginning on or after January 1, 2013."

26-51-501. Personal tax credits.

(a) There shall be deducted from the tax after the tax shall have been computed as set forth in the Income Tax Act of 1929, § 26-51-101 et seq., a personal tax credit as follows:

(1)(A) For a single individual, the adjusted individual credit.

(B) However, a taxpayer who was blind or deaf at any time during the income year shall be entitled to an additional tax credit of twenty dollars ($20.00).

(C) A single individual who is deaf-blind shall be entitled to an additional tax credit of forty dollars ($40.00).

(D) A single individual of sixty-five (65) years of age or older shall be entitled to an additional tax credit of twenty dollars ($20.00);

(2)(A)(i)*(a)* For the head of household, surviving spouse, or a married individual living with husband or wife, the adjusted joint credit.

(b) A husband and wife living together and filing either jointly or separately on the same income tax form shall receive only one (1) adjusted joint credit against their aggregate tax.

(ii) Subdivision (a)(2)(A)(i) of this section shall apply if the Director of the Department of Finance and Administration continues to provide a tax return on which a husband and wife can elect to file jointly or separately on the same return.

(B) However, in the event that the husband or wife shall be sixty-five (65) years of age or older, each of them who is sixty-five (65) years of age or older shall be entitled to an additional tax credit of twenty dollars ($20.00).

(C) However, any husband or wife filing a separate return on a separate tax form shall receive the adjusted individual credit on each return so filed, but if the husband or wife is sixty-five (65) years of age or older, each of them who is sixty-five (65) years of age or older shall be entitled to an additional tax credit of twenty dollars ($20.00).

(D) "Head of household" means the same as defined in 26 U.S.C. § 2(b), as in effect on January 1, 2001.

(E) "Surviving spouse" means the same as defined in 26 U.S.C. § 2(a), as in effect on January 1, 2001;

(3)(A) For each individual, other than husband or wife, who has a gross income for the tax year of less than three thousand dollars ($3,000), who has not filed a joint return with his or her spouse for the taxable year, and who is dependent upon and receives his or her chief support from the taxpayer, the adjusted individual credit.

(B)(i) As used in subdivision (a)(3)(A) of this section, "dependent" means the same as defined in 26 U.S.C. § 152, as in effect on January 1, 2005.

(ii) "Dependent" does not include any individual who is a citizen or subject of a foreign country unless that individual is a resident of the United States or a country contiguous to the United States.

(C)(i) As used in subdivision (a)(3)(B) of this section, "brother" and "sister" include a brother or sister by half blood.

(ii) For the purpose of determining whether any of the foregoing relationships exist, a legally adopted child of a person shall be considered a child of that person by blood;

(4) In the case of a fiduciary:

(A) If taxable under § 26-51-203(a)(1), the adjusted individual credit;

(B) If taxable under § 26-51-203(a)(2), the same tax credit as would be allowed the deceased if living;

(C) If taxable under § 26-51-203(a)(3), the tax credit to which the beneficiary would be entitled; and

(5) In the case of a nonresident taxpayer, the taxpayer shall be entitled to that proportion of the tax credit granted by the Income Tax Act of 1929, § 26-51-101 et seq., that the gross income within the state bears to the entire gross income wherever earned.

(b)(1) The status of the last day of the income year shall determine the right to the tax credits provided in this section.

(2) However, a taxpayer shall be entitled to tax credits for a husband or wife or a dependent who has died during the income year.

(c)(1) As used in this section, "blind person" means any person:

(A) Who is totally blind, cannot tell light from darkness;

(B) A person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or

(C) Whose fields of vision are so limited that the widest diameter of the visual field subtends an angle no greater than twenty degrees (20°).

(2) For the purposes of subdivision (a)(1) of this section:

(A) An individual is deaf only if his or her average loss in the speech frequencies which are five hundred hertz (500 Hz) to two thousand hertz (2,000 HZ) in the better ear is eighty-six decibels (86 dB), International Organization for Standardization (ISO), or worse; and

(B) An individual is deaf-blind only if he or she is both deaf and blind.

(d) For the purposes of this section:

(1) "Adjusted individual credit" shall be twenty dollars ($20.00); and

(2) "Adjusted joint credit" shall be forty dollars ($40.00).

(e)(1)(A) Not later than July 15 of each calendar year, the Director of the Department of Finance and Administration shall increase the adjusted individual credit and adjusted joint credit by the cost-of-living adjustment for that current calendar year, rounding each amount to the nearest dollar.

(B) The annual cost-of-living adjustment shall apply to the adjusted credits as contained in subdivisions (d)(1) and (2) of this section.

(2)(A) For purposes of subdivision (e)(1) of this section, the cost-of-living adjustment for any calendar year is the percentage, if any, by which the Consumer Price Index for the calendar year preceding the taxable year exceeds the Consumer Price Index for the calendar year 2001.

(B) The Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the twelve-month period ending on August 31 of that calendar year.

(C) As used in this subsection, "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor.

(3) The adjusted credit amounts shall apply for tax years beginning on and after January 1, 2003.

(4) The director shall not increase the adjusted credit for any calendar year unless the conditions of subsection (f) of this section are met.

(f) The adjusted credit applicable for any calendar year shall not be increased unless:

(1) The net available general revenue forecast provided to the Joint Committee on Economic and Tax Policy under § 10-3-1404(a)(1)(A) in May of the calendar year for which a credit increase is contemplated indicates that net available general revenue growth for the fiscal year beginning in the calendar year for which a credit increase is contemplated will be four and two-tenths percent (4.2%) or greater; and

(2) Either:

(A) The net available general revenues for the fiscal year ending in the calendar year for which a credit increase is contemplated exceed the official forecast by at least five-tenths of one percent (0.5%); or

(B) The net available general revenues for the fiscal year ending in the calendar year for which a credit increase is contemplated exceed

the total distributions for that fiscal year under the provisions of the Revenue Stabilization Law, § 19-5-101 et seq.

(g) Title 26 U.S.C. § 151(c)(6) as in effect on January 1, 2003, regarding the tax treatment of kidnapped children, is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1929, No. 118, Art. 3, § 16; Pope's Dig., § 14039; Acts 1941, No. 129, § 1; 1947, No. 135, § 4; 1951, No. 19, § 1; 1957, No. 20, § 2; 1968 (2nd Ex. Sess.), No. 7, § 1; 1969, No. 219, §§ 1, 3; 1969, No. 243, § 1; 1975, No. 994, § 1; 1977, No. 629, §§ 1, 2; 1979, No. 420, § 1; 1983, No. 506, § 1; A.S.A. 1947, §§ 84-2021, 84-2021a, 84-2021.3; Acts 1987, No. 382, § 24; 1993, No. 785, §§ 11, 12; 2001, No. 1819, § 1; 2003, No. 663, § 12; 2005, No. 675, § 14; 2013, No. 1224, § 3.

Amendments. The 2013 amendment substituted "Tax Policy under § 10-3-1404(a)(1)(A)" for "Tax Policy pursuant to § 10-3-1404" in (f)(1).

26-51-502. Household and dependent care services.

(a) A credit shall be allowed to individuals against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., for expenses for household and dependent care services necessary for gainful employment in the manner prescribed by subsection (b) of this section.

(b)(1) Title 26 U.S.C. § 21, as in effect on January 2, 2013, is adopted for purposes of determining the allowable credit under the Income Tax Act of 1929, § 26-51-101 et seq., for household and dependent care services necessary for gainful employment.

(2) The amount of credit shall be twenty percent (20%) of the federal credit allowable.

(c)(1)(A)(i) A credit, which is equal to twenty percent (20%) of the federal child care credit as allowed under 26 U.S.C. § 21, as in effect on January 2, 2013, shall be allowed to qualified individuals against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq.

(ii) The twenty percent (20%) child care credit is refundable.

(iii) The excess of the credit over tax liability will be returned to the taxpayer as an overpayment of tax.

(B) "Qualified individual" means a taxpayer who has a dependent child with respect to whom the taxpayer is entitled to a credit under § 26-51-501(a)(3), and who incurs child care expenses necessary for gainful employment at an approved child care facility, as defined in subdivision (c)(1)(C) of this section.

(C) "Approved child care facility" means a child care facility which provided an appropriate early childhood program, as defined in § 6-45-103, and which is approved in accordance with § 6-45-109.

(2) A taxpayer cannot claim both the credit allowed in subsections (a) and (b) of this section and the credit allowed in subsection (c) of this section.

(3) The credit allowed in this subsection shall be effective for taxable years beginning January 1, 2013.

History. Acts 1973, No. 490, §§ 1, 2; 1977, No. 734, §§ 1, 2; 1983, No. 379, § 15; A.S.A. 1947, §§ 84-2088, 84-2089; Acts 1993, No. 1268, § 1; 1997, No. 328, § 6; 1997, No. 951, § 1; 2003, No. 663, § 13; 2005, No. 675, § 15; 2007, No. 218, § 34; 2011, No. 787, § 33; 2013, No. 1254, §§ 14–16.

Amendments. The 2013 amendment substituted "January 2, 2013" for "January 1, 2011" in (b)(1); and substituted "January 2, 2013" for "January 1, 1993" in (c)(1)(A)(i) and (c)(3).

Effective Dates. Acts 2013, No. 1254, § 17(b): Jan. 1, 2013. Effective date clause provided: "Sections 1-4, 9, and 11-16 of this act are effective for tax years beginning on or after January 1, 2013."

Subchapter 7 — Uniform Division of Income for Tax Purposes Act

26-51-701. Definitions.

RESEARCH REFERENCES

ALR. Construction and Application of Uniform Division of Income for Tax Purposes Act (UDITPA) — Determination of Business Income. 74 A.L.R.6th 1.

Subchapter 8 — Tax Returns

Effective Dates. Acts 2013, No. 1488, § 3: Jan. 1, 2014. Effective date clause provided: "This act is effective for tax years beginning on and after January 1, 2014."

26-51-815. Computing capital gains and losses. [Effective January 1, 2014.]

(a)(1)(A) To the extent they apply to capital gains and losses realized or incurred during income years beginning after December 31, 1996, 26 U.S.C. §§ 1211-1231, 1232 [repealed], 1232A [repealed], 1232B [repealed], 1233-1237, 1239, 1240 [repealed], 1241-1245, 1246 [repealed], 1247 [repealed], 1248-1250, 1251 [repealed], and 1252-1257, as in effect on January 1, 2011, and the regulations of the Secretary of the Treasury promulgated under 26 U.S.C. §§ 1211-1231, 1232 [repealed], 1232A [repealed], 1232B [repealed], 1233-1237, 1239, 1240 [repealed], 1241-1245, 1246 [repealed], 1247 [repealed], 1248-1250, 1251 [repealed], and 1252-1257, as in effect on January 1, 2011, are adopted for the purpose of computing tax liability under the Income Tax Act of 1929, § 26-51-101 et seq.

(B) However, the provisions of this section shall not apply to a C corporation as defined in 26 U.S.C. § 1361, as in effect on January 1, 2011.

(2) Furthermore, any other provisions of the federal income tax law and regulations necessary for interpreting and implementing 26 U.S.C.

§§ 1211-1231, 1232 [repealed], 1232A [repealed], 1232B [repealed], 1233-1237, 1239, 1240 [repealed], 1241-1245, 1246 [repealed], 1247 [repealed], 1248-1250, 1251 [repealed], and 1252-1257 are adopted to that extent and as in effect on January 1, 2007.

(b)(1) Except as otherwise provided in this subsection, if a taxpayer has a net capital gain for tax years beginning on and after January 1, 1999, thirty percent (30%) of the gain is exempt from state income tax.

(2) If a taxpayer has a net capital gain for tax years beginning on and after January 1, 2015, fifty percent (50%) of the gain is exempt from state income tax.

(3) The amount of net capital gain in excess of ten million dollars ($10,000,000) from a gain realized on or after January 1, 2014, is exempt from the state income tax.

(c) Title 26 U.S.C. § 1202, as in effect on January 1, 1995, regarding the exclusion from gain of certain small business stock, is adopted for the purpose of computing Arkansas income tax liability.

(d)(1) If a taxpayer has a net capital gain from a venture capital investment, one hundred percent (100%) of the gain shall be exempt from the Income Tax Act of 1929, § 26-51-101 et seq., if:

(A) The venture capital investment was initially made on or after January 1, 2001; and

(B) The venture capital investment was held for at least five (5) years prior to disposition.

(2)(A) "Venture capital" means equity financing, broadly defined, including early stage research, development, commercialization, seed capital for startup enterprises, and other risk capital for expansion of entrepreneurial enterprises doing business in Arkansas that are:

(i) Qualified technology-based enterprises doing business in Arkansas;

(ii) Qualified biotechnology enterprises doing business in Arkansas; or

(iii) Qualified technology incubator clients doing business in Arkansas.

(B) "Venture capital" does not include the purchase of a share of stock in a company if, on the date on which the share of stock is purchased, the company has securities outstanding that are:

(i) Registered on a national securities exchange under § 12(b) of Title I of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, as it exists on January 1, 2001;

(ii) Registered or required to be registered under § 12(g) of Title I of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, as it exists on January 1, 2001; or

(iii) Required to be registered except for the exemptions in § 12(g)(2) of Title I of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, as it exists on January 1, 2001.

(C) "Qualified biotechnology enterprise" means a corporation, partnership, limited liability company, sole proprietorship, or other entity that is certified by the Arkansas Economic Development Commission pursuant to § 2-8-108 [repealed].

(D) "Qualified technology incubator" means a business incubator certified by the Board of Directors of the Arkansas Science and Technology Authority as being a facility operated in cooperation with an Arkansas college or university to foster the growth of technology-based enterprises.

(E) "Qualified technology incubator client" means a corporation, partnership, limited liability company, sole proprietorship, or other entity that, as of the date of the venture capital investment, is certified by an Arkansas college or university as currently receiving, or having received within the previous three (3) years, the services of a qualified technology incubator.

(F) "Qualified technology-based enterprise" means a corporation, partnership, limited liability company, sole proprietorship, or other legal entity whose primary business directly involves commercializing the results of research in fields having long-term economic or commercial value to the state and having been identified in the research and development plan approved by the board.

History. Acts 1929, No. 118, §§ 45, 46, as added by Acts 1985, No. 848, § 1; 1985 (1st Ex. Sess.), No. 20, § 1; 1985 (1st Ex. Sess.), No. 32, § 1; A.S.A. 1947, §§ 84-2048.1, 84-2048.2; Acts 1987, No. 35, § 2; 1989, No. 933, § 2; 1991, No. 882, § 1; 1995, No. 1160, § 9; 1997, No. 951, § 16; 1999, No. 1005, § 1; 1999, No. 1126, § 39; 2001, No. 1584, § 1; 2003, No. 857, § 1; 2007, No. 218, § 36; 2011, No. 787, § 34; 2013, No. 1488, § 2.

Publisher's Notes. For version of section effective until January 1, 2014, see the bound volume.

Amendments. The 2013 amendment rewrote (b).

Effective Dates. Acts 2013, No. 1488, § 3: Jan. 1, 2014. Effective date clause provided: "This act is effective for tax years beginning on and after January 1, 2014."

Subchapter 10 — Water Resource Conservation and Development Incentives Act

26-51-1004. Applicability — Effective date.

(a) The tax credits provided by this subchapter shall apply to taxable years beginning on or after January 1, 1996, and all taxable years thereafter.

(b) Any approved applicant claiming a tax credit under this subchapter may not claim a credit under any similar act for any costs related to the same project.

(c) Any tax credit issued to an approved applicant that is a partnership, a limited liability company taxed as a partnership, a Subchapter S corporation, or a fiduciary shall be passed through to the partners, members, or owners, respectively, on a pro rata basis or pursuant to an

executed agreement between or among the partners, members, or owners documenting an alternative method for the distribution of the tax credit.

History. Acts 1995, No. 341, §§ 4, 16; 2011, No. 631, § 2; 2013, No. 1135, § 8.

Amendments. The 2013 amendment inserted "tax" at the end of (c).

26-51-1010. Application and approval procedure — Administration.

(a)(1) The Arkansas Natural Resources Commission shall promulgate such rules and regulations as may be deemed necessary in administering projects submitted with the intent of qualifying for the tax incentives provided for in this subchapter.

(2) The rules shall not be adopted without the approval of the Department of Finance and Administration.

(b)(1) The commission may charge a reasonable application fee for the processing of tax credit applications.

(2) All fees collected shall be deposited into the Arkansas Water Development Fund.

(c)(1) The commission may issue a tax credit approval certificate for those applications proposing projects that meet the requirements of this subchapter and rules promulgated under this subchapter.

(2) An approved applicant must file the certificate of tax credit approval with the approved applicant's income tax return for the first year in which the approved applicant claims a tax credit under this subchapter.

(d)(1) Upon completion of the project, the approved applicant shall apply to the commission for a certificate of completion.

(2) The commission shall issue a tax credit certificate of completion to any approved applicant meeting the requirements of this subchapter and the rules promulgated by the department.

(3) After receiving a certificate of completion, the approved applicant shall file the certificate of completion with the first tax return filed after issuance of the certificate of completion.

(e) The department shall promulgate such rules as may be deemed necessary to carry out the tax credit provisions of this subchapter.

History. Acts 1995, No. 341, §§ 5, 11; 2011, No. 631, § 8; 2013, No. 1135, §§ 9, 10.

Amendments. The 2013 amendment substituted "under this subchapter" for "thereunder" in (c)(1); and deleted "and regulations" following "such rules" in (e).

26-51-1012. Deduction for project costs above tax credit.

(a) In determining net income for Arkansas income tax purposes, any approved applicant qualifying for the tax credits provided in this subchapter is also entitled to a deduction in an amount equal to the project cost less the total amount of tax credits to which the approved applicant is entitled under this subchapter.

(b) The deduction provided for in this subchapter shall be taken only during the year in which the expenditures for the project were actually incurred.

History. Acts 1995, No. 341, § 13; 2011, No. 631, § 10; 2013, No. 1135, § 11.

Amendments. The 2013 amendment, in (a), inserted "tax" twice, and substituted "is also" for "shall also be."